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* Web sites and navigation referenced in this chapter are subject to change. For the most current links, please refer to the online version of the EPM, available through the ESO home page: <http://www.wsdot.wa.gov/environment/>.

540.01 Introduction

Chapter 540 includes permits and approvals granted or issued by state agencies. The most important and most frequently needed by WSDOT are permits issued by Ecology to regulate impacts on water quality. These include the Clean Water Act Section 401 certification and Section 402 National Pollution Discharge Elimination System (NPDES) permits. Ecology also authorizes temporary exceedance of water quality standards, through an Implementing Agreement with WSDOT, and regulates impacts to isolated wetlands through administrative orders.

Ecology regulates impacts on groundwater through its State Waste Discharge Permit program, used for onsite sewage systems, drywells, and discharge of reclaimed water; and its Underground Injection Control registration requirement.

Ecology is also responsible for certifying consistency of proposed projects with the federal Coastal Zone Management Act, and for regulating activities related to hazardous substances.

Two state agencies regulate impacts to state-owned resources. Activities potentially impacting aquatic resources are authorized by the Washington State Department of Fish and Wildlife (WDFW) through its Hydraulic Project Approval. Washington State Department of Natural Resources (WDNR) grants easements over state-owned land, approval for certain practices on state-owned forest land, permits for reclamation of surface mining operations, and permits for removal of survey monuments.

The Washington State Department of Health (DOH) is responsible for regulating on-site sewage facilities discharging 3,500 to 14,500 gallons per day (gpd) and for approving new water systems, either of which could be needed for new WSDOT maintenance facilities or Safety Rest Areas.

The Office of Archaeological and Historic Preservation (OAHP) issues permits for archaeological excavation and removal except on federal or tribal land.

Under the state Clean Air Act, regional air quality authorities (CAAs) issue permits for temporary emission of air pollutants from land clearing burns, asbestos demolition, and asphalt batching or rock crushing.

There are other state approvals that are rarely needed by WSDOT. Ecology issues water rights for withdrawal of surface or ground water, safety permits for work on dams, reservoir permits for impounding of water, and soil boring permits for geotechnical investigations. WDFW issues permits for beaver trapping on WSDOT property.

540.02 Section 401 Water Quality Certification

(1) Overview

The Clean Water Act requires federal permits for proposed projects that may result in a discharge of pollutants into waters of the U.S. Permit applicants are required to obtain a certification from the state in which the discharge originates that the discharge will comply with state water quality standards and other aquatic resource protection requirements. These include effluent limits, new source performance standards, and Total Maximum Daily Limits of pollutants. Section 401 Certification can cover both construction and operation of a

proposed project. Conditions of the Section 401 Certification become conditions of the federal permit or license, and are in effect for the same time period. However, since Ecology issues Section 401 Certifications as administrative orders under RCW 90.48, conditions may be included that apply to the project longer than the federal permit or license.

Ecology has prepared a schematic diagram illustrating the Section 401 Certification application and review process. The schematic is in [Exhibit 540-1](#) and online at:

 http://www.ecy.wa.gov/programs/sea/pac/ppds_info/401_Water_Quality_Cert.pdf

Agencies Issuing Certification – Washington State Department of Ecology issues certifications for discharges on all non-federal and non-tribal land. USEPA Region 10's Aquatic Resources Unit issues certifications on federal and tribal land except Chehalis and Puyallup tribal land (see [Section 530.03](#) for Chehalis and Puyallup tribal certification).

Statutory Authority – Section 401 of the Clean Water Act (33 USC 1341); RCW 90.48; WAC 173-201A and 173-225.

Regulated Activities – Applications for a federal permit or license to conduct any activity that might result in discharge of a pollutant into waters of the U.S., including non-isolated wetlands. Pollutants include dredge or fill material as regulated under Section 404.

Exempt Activities – None.

Geographic Extent – State of Washington.

Types of Permits – Same as Section 404 General and Individual Permits (see [Section 520.02](#)). Ecology has already approved, denied, or partially denied certification for activities covered by certain Nationwide permits. If an NWP is approved, no further Section 401 certification is required. If a NWP is partially denied without prejudice, activities potentially covered by that NWP need an individual Section 401 certification or a letter of verification (LOV). If an NWP is denied without prejudice, an individual certification is required for all activities covered under that Nationwide permit.

Of the most common NWPs used by WSDOT, Ecology has taken the following actions:

- Approved: NWP 6 (Survey Activities), NWP 15 (USCG Approved Bridges), and NWP 19 (25 Cubic Yard Dredging).
- Partially denied without prejudice: NWP 3 (Maintenance), NWP 7 (Outfall Structures and Maintenance), NWP 13 (Bank Stabilization), 14 (Linear Transportation), NWP 18 (Minor Discharges), NWP 23 (Approved Categorical Exclusions), 27 (Stream and Wetland Restoration Activities), and NWP 33 (Temporary Construction, Access and Dewatering).
- Denied without prejudice: NWP 41 (Reshaping Existing Drainage Ditches), and NWP 43 (Stormwater Management Facilities).

The Chehalis and Puyallup tribes require individual certification for all NWP's and the USEPA requires individual 401 certification for essentially all NWP's in their jurisdiction.

Prerequisite Permits and Approvals – For a Nationwide permit, Ecology cannot issue a 401 action prior to the Corps issuing a Nationwide permit. If SEPA is required then it has to be complied with prior to the issuance of a 401 Certification. While they are not prerequisite Ecology prefers to have a copy of the HPA prior to issuing a 401 Certification.

Related Permits and Approvals – An individual Section 401 certification from Ecology, USEPA, Puyallup tribe or Chehalis tribe is required before individual federal permits or licenses can be issued by the Corps (Section 404 or Section 10 permits, see [Section 520.02](#) and [Section 520.03](#)) or USCG (Section 9 permits, see [Section 520.04](#)). If the project is within any of Washington's 15 coastal counties, a Coastal Zone Management consistency determination is required (see [Section 540.03](#)). If the project will result in discharge of pollutants to surface water, an NPDES permit is required (see [Section 540.04](#) to [Section 540.08](#)). Ecology also has the authority under state water quality laws to issue administrative orders for projects not requiring federal permits such as activities impacting isolated wetlands (see [Section 540.13](#)).

Interagency Agreements – The November 2004 Compliance Implementing Agreement between WSDOT and Ecology is designed to assist in obtaining and maintaining WSDOT compliance with state water quality standards, including compliance with Section 401 Certifications, Section 402 NPDES permits, Implementing Agreements, and other Ecology Orders and approvals.

The February 1998 Implementing Agreement between Ecology and WSDOT regarding compliance with state surface water quality standards is designed to ensure that WSDOT activities are in compliance with state surface water quality standards through general and activity specific conditions. General conditions deal with concrete work, erosion control, spill response, and monitoring. Activity specific conditions address several categories of work that may effect surface water quality standards. This document is expected to be revised during the fall of 2005 and be renewed by the spring of 2006.

Both agreements are online at the WSDOT's ESO compliance web site or by direct link:

 <http://www.wsdot.wa.gov/environment/Programmatics/default.htm#interagency>

Processing Time – For projects needing Individual permits, Section 401 certification requires a minimum 20 day public notice and up to one year to approve, condition, or deny; decisions usually take less than three months. Projects covered by Nationwide permits that have been partially denied may take a few days or weeks after receipt of the JARPA in order for Ecology to determine if an individual 401 Certification is needed or if a Letter of Verification (LOV) can be issued. LOVs usually take 30 days, but can take up to 180 days. If an individual 401 Certification is required Ecology has 180 days from the date of Ecology's public notice to make a 401 Certification decision.

Fees – None.

(2) **How to Apply**

WSDOT should notify Ecology early on when applying for a Section 404 Individual or Nationwide permit so Ecology 401 certification review can start prior to issuance of a Corps final permit decision. In those cases where Ecology has received an JARPA requesting a 401 Certification and a determination is made that an individual Section 401 Certification is needed, Ecology can move forward with issuing a 20 day public notice but will coordinate with the Corps of Engineers prior to issuing the notice.

JARPA – Nationwide and Individual 404 Permit applications and USCG Section 9 permits are submitted as part of JARPA, a system designed to allow applicants in Washington to batch permit applications and trigger concurrent permit review periods (see [Section 510.03](#)). The application and other information is on Ecology's web site:

 <http://www.ecy.wa.gov/>

Click on Services, then Permitting, then Environmental Permitting Services and under the heading Permit Applications, click on Joint Aquatic Resource Permit Application (JARPA).

Or by direct link:

 <http://www.ecy.wa.gov/programs/sea/pac/jarpa.html>

Washington's Office of Regulatory Assistance has developed an electronic tool for using the JARPA. The tool can be accessed at:

 <http://www.one-stop-jarpa.org/>

Pre-application Conference – Unless there are unusual water quality issues, WSDOT normally does not request a pre-application meeting only for Section 401 certification. For large projects, WSDOT frequently holds pre-application meetings that include all permitting agencies, including Ecology.

Special Information Requirements – If applicable to the project, mitigation plans, operation and maintenance plans, stormwater site plans, and restoration plans may be required. See [Section 431.05](#) and [Section 437.05](#) for guidance in preparing these plans.

Public Notice – Issued by the Corps or Ecology.

Submitting the Application – Submit the JARPA to the appropriate federal agency (i.e. Seattle District Corps and/or USCG), and to Ecology:

Washington State Department of Ecology
Shorelands and Environmental Assistance
Attn: 401 Policy Lead
P.O. Box 47600
Olympia, WA 98504-7600

Agency and Public Review– For Section 404 permits, the Corps determines whether the project qualifies for coverage under a Nationwide permit or needs an Individual permit. If an Ecology Section 401 certification has been approved for the NWP, no further Ecology action is required and the Corps approves coverage under the NWP. For NWPs that have been partially denied, applications are

reviewed by Shoreline and Environmental Assistance staff at Ecology's headquarters. If the project meets the NWP Section 401 requirements, Ecology issues a Letter of Verification, the Corps issues the Section 404 permit, and the project can proceed.

For Individual Permits and NWPs requiring an individual Section 401 certification, the Corps or Ecology issues a public notice. The public has 30 days to submit comments for a Corps public notice and 20 days to submit comments for an Ecology public notice. The Corps and Ecology may issue a joint public notice with a 30 day comment period for those projects requiring individual permits from the two agencies. Ecology then has 180 days for NWPs and 360 days for Individual permits to make a decision on the Section 401 certification. Ecology's decision may be to approve, approve with conditions, or deny the certification.

Appeal Process – WSDOT or members of the public may appeal Section 401 decisions to the Pollution Control Hearings Board within 30 days of Ecology's decision. The case may not be heard for six months or more.

Post-permitting Requirements – An individual certification may contain conditions for submittal of water quality monitoring plan and TESC plan, and there are notification requirements for the preconstruction meeting, start of construction, and start of certain activities. If wetland mitigation is involved there may be conditions requiring submittal of an as-built report six months after completing construction of the wetland mitigation site and monitoring reports.

(3) For More Information

For information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance, please refer to **Chapter 431**, Water Quality/Surface Water; **Chapter 432**, Floodplain; **Chapter 437**, Wetlands; and **Chapter 452**, Coastal Areas and Shorelines; and **Chapter 453**, Wild and Scenic Rivers. For information on water quality procedures during construction see **Section 620.04**.

The Corps' Special Public Notice describes the relationship between Section 401 certification and Section 404 nationwide permits, and specifies which activities require Individual 401 certification. The notice can be accessed from:

 <http://www.wsdot.wa.gov/environment/>

Click on Programmatic Permits, then Permitting Tools and Help, then Section 401 certification for 404 Nationwide Permits

Or by direct link

 <http://www.wsdot.wa.gov/environment/Programmatics/Section401.htm>

The public notice and current Section 401 conditions for Nationwide permits, are on the Corps Seattle District web site:

 <http://www.nws.usace.army.mil/index.cfm>

Click on Regulatory/Permits, Nationwide Permits, then 2002 NWPs

Or by direct link:

 http://www.nws.usace.army.mil/publicmenu/menu.cfm?sitename=reg&pagename=nwp_2002

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see **Appendix G** for list of contacts). Other assistance is available from WSDOT's Environmental Services Office Permit Program, Gregor Myhr, Manager, 360-705-7487, email MyhrG@wsdot.wa.gov; Water Quality Program, call Mike Stephens 360-570-6656, email StepheM@wsdot.wa.gov; or Richard Tveten, 360-570-6648, email tvetenr@wsdot.wa.gov. Technical assistance is also available from permit coordinators at Ecology regional offices, or Ecology's federal permit staff at headquarters.

The WSDOT/Corps Liaison team currently has three Regulatory Branch staff members, Kate Stenberg, Jack Kennedy, and Anne Robinson, with Sandra Manning as temporary staff. Their areas of responsibility and contact information are listed at:

 http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=Team_DOT

For WSDOT projects, the Ecology Federal Permits Unit staff responsible for coordinating Nationwide 404 Permits, Section 401 Water Quality Certification, and Coastal Zone Management Consistency Determinations are:

Permanent:

- Sandra Manning, 360-407-6912, sman461@ecy.wa.gov
- Therese Swanson, (Terry) 360-407-6789 tswa461@ecy.wa.gov
- Lisa Rozmyn, 360-407-7032, lroz461@ecy.wa.gov
- Kerry Carroll, 360-407-7503, kstr461@ecy.wa.gov
- Penny Kelley, 360-407-7298, pkel461@ecy.wa.gov
- Penny Keys, 360-407-6927, pkey461@ecy.wa.gov

Temporary:

- Sandra Lange, 306-407-0273, slan461@ecy.wa.gov

Ecology's staff on the Multiple Agency Permitting (MAP) team for WSDOT projects is Rebecca Ponzio, 425-649-7000, rpon461@ecy.wa.gov.

(5) Information Last Updated

May 24, 2005.

540.03 Coastal Zone Management Consistency Certification

(1) Overview

The Coastal Zone Management Act (CZMA) encourages the appropriate development and protection of the nation's coastal and shoreline resources. CZM consistency certification is required within Washington's 15 coastal counties for projects with a federal nexus i.e., involving federal funding, federal licenses, permits or approvals, use of federal lands, or a federal program. A

federal agency cannot approve or fund any activity unless Ecology concurs that the project is consistent with the State's federally approved CZM program.

Under Washington's CZM Program, activities affecting any land use, water use, or natural resource of the coastal zone must comply with six laws, called "enforceable policies," four of which typically apply to transportation projects: SEPA, the state Shoreline Management Act, federal and state clean water acts, and federal and state clean air acts.

The federal consistency process allows the public, local governments, tribes, and State agencies an opportunity to influence federal actions likely to affect Washington's coastal resources or uses.

Ecology has prepared a schematic diagram illustrating the CZM consistency certification application and review process. The schematic is in [Exhibit 540-2](#) and online at:

 http://www.ecy.wa.gov/programs/sea/pac/ppds_info/Coastal_Zone_Management_Schematic.pdf

Agency Issuing Certification – Washington State Department of Ecology.

Statutory Authority –U.S. Coastal Zone Management Act, 16 USC 1451 *et seq.*; CZM program regulations, 15 CFR 923; CZM federal consistency regulations, 15 CFR 930, particularly Subpart D, 930.50-930.66, activities requiring a federal permit or license; and the Washington Shoreline Management Act, RCW 90.58.

Regulated Activities – Three categories of activities trigger a coastal zone management consistency review, two of which may apply to WSDOT projects: activities that require federal approval and activities that use federal funding. If a WSDOT project falls into one of these categories and is either in the coastal zone or it impacts coastal resources, then federal consistency is required.

Geographic Extent – Washington State's coastal zone includes the 15 counties with saltwater shorelines (Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom). It includes all lands and waters from the coastline seaward for three nautical miles. For areas adjacent to the ocean, the coastline is defined as the position of ordinary low water, and for inland marine waters, as the seaward limit of rivers, bays, estuaries, or Puget Sound.

Types of Permits – Only one type of approval is required.

Related Permits and Approvals – Permits requiring Ecology concurrence that the project is consistent with the CZM program include: State Shoreline Management Act permits (Chapter 90.58 RCW), Section 404 and Section 10 permits (see [Section 520.02](#) and [Section 520.03](#)), Section 9 permit (see [Section 520.04](#)), Section 401 water quality certification (see [Section 540.02](#)), and NPDES permits (see [Section 540.04](#) to [Section 540.08](#)).

Ecology has denied CZM consistency for the entire Corps Section 404 Nationwide Permit (NWP) program. As a result, any applicant for coverage under NWP used in a coastal county must meet CZM consistency requirements.

Where the activity requires a permit or approval under an enforceable policy of the CZM program, Ecology will not concur with CZM consistency until the

SEPA requirements are met and the permit or exemption is approved. Federal agencies cannot approve their permits without Ecology CZM concurrence.

Interagency Agreements – None applicable.

Processing Time – For permit, license, or funding applications, Ecology has 180 days to render a decision. If Ecology does not respond, consistency is presumed.

(2) **How to Apply**

WSDOT completes the Certificate of Consistency form at the Corps Seattle District web site:

 http://www.nws.usace.army.mil/publicmenu/DOCUMENTS/CERTIFICATION_OF_CONSISTENCY_WITH_CZM.doc

JARPA – WSDOT requests Ecology concurrence with its CZM certification as part of its Joint Aquatic Resources Permit Application (JARPA), which is designed to allow applicants in Washington to batch permit applications and trigger concurrent permit review periods (see **Section 510.03**, JARPA). The application and other information is on Ecology's web site:

 <http://www.ecy.wa.gov/>

Click on Services, then Permit Assistance Center, then Permit Applications, then Joint Aquatic Resource Permit Application (JARPA).

Or by direct link:

 <http://www.ecy.wa.gov/programs/sea/pac/jarpa.html>

Pre-application Conference – Not applicable.

Special Information Requirements – The certification of consistency requires giving permit numbers and approval dates indicating compliance with the enforceable policies (e.g. SEPA status, and whether state shoreline, water quality or air quality permit is required, has been applied for, or received).

Public Notice – WSDOT must give public notice of the CZM certification except for Corps and USCG permits; for these permits, public notice is published by the federal agency. WSDOT's CZM notice can be combined with the notice required under one of the enforceable policies, such as a SEPA determination or a Shoreline Substantial Development permit. WSDOT must indicate on the CZM form how and when public notice was given.

Submitting the Application – For Corps Section 404 and Section 10 permits, WSDOT submits the JARPA and CZM certification to both Corps and Ecology. For all other federal permits, WSDOT submits the CZM certification to Ecology:

Department of Ecology
Shorelands and Environmental Assistance Program:
300 Desmond Drive, SE
Lacey, WA 98503

Agency and Public Review – Ecology reviews proposed projects for consistency with the enforceable policies of the CZM program. Ecology has six months from the receipt of the certification to concur, concur with conditions, or deny approval. If Ecology fails to act within six months, concurrence is presumed.

When public involvement occurs through other review processes, as for shoreline or Section 404 permits, no additional public involvement is required for CZM consistency. For projects where public involvement is not otherwise required, or for large, complex, and controversial projects, Ecology has developed a separate public involvement process. This involves public notice, a 21-day public comment period, and potentially a public meeting or hearing. Notification is sent to interested parties.

Appeal Process –An applicant may appeal Ecology’s consistency decision within 30 days to the Secretary of Commerce in accordance with Title 15, Chapter IX, Part 930.125 CFR. No public appeal is available for CZM consistency, although related permit decisions may provide for public appeal.

(3) For More Information

Please see **Chapter 452**, Coastal Areas and Shorelines, for information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance. For more on shoreline substantial development permits and other shoreline-related requirements, see **Section 550.02**.

Ecology’s coastal zone management home page includes links to Washington’s CZM Program document, a two page focus sheet summarizing the federal consistency procedures:

 <http://www.ecy.wa.gov/programs/sea/czm/index.html>

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see **Appendix G** for list of contacts). Other assistance is available from WSDOT’s Environmental Services Office Compliance Branch by contacting Gregor Myhr, Permit Program Manager, 360-705-7487 or MyhrG@wsdot.wa.gov.

For assistance from Ecology, contact Bev Huether, federal consistency coordinator at Shorelands Environmental Assistance Program, 360-407-7258, bhue461@ecy.wa.gov.

Contact information for the WSDOT/Corps Liaison team Regulatory Branch staff is listed at:

 http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=Team_DOT

(5) Information Last Updated

May 5, 2005.


540.04 NPDES Construction Stormwater Permit (General and Individual)

(1) Overview

The National Pollutant Discharge Elimination System (NPDES) permit program was created under the Clean Water Act, Section 402. Ecology has been delegated by the U.S. Environmental Protection Agency (USEPA) to administer the program in Washington, and does so in conjunction with its State Waste

Discharge Permit program. The goal of the program is to reduce or eliminate pollution and other impacts to waters of the state. The NPDES Construction Stormwater permit authorizes stormwater discharges to surface water, subject to permit conditions. These conditions require WSDOT to provide environmental protection through BMPs and wastewater treatment.

Ecology has prepared a schematic diagram illustrating the NPDES Construction Stormwater application and review process. The schematic is in **Exhibit 540-3** and online at:

 http://www.ecy.wa.gov/programs/sea/pac/ppds_info/Construction_Stormwater_Coverage_Schematic.pdf

Agency Issuing Permit – Washington State Department of Ecology.

Statutory Authority – Clean Water Act Section 402 (33 USC 1342); 40 CFR Parts 122, 123 and 124 Subchapter D; WAC 173-226 (general permits).

Regulated Activities – A construction stormwater permit is required for all soil disturbing activities (including grading, stump removal, and demolition) where construction activity will disturb one or more acres and will result in discharge of stormwater to a receiving water (e.g., wetland, creek, river, marine water, ditch, or estuary), and/or storm drains that discharge to a receiving water. Stormwater associated with construction support activities (e.g. off-site equipment staging yards, material storage areas, borrow areas, etc.) are also covered by this permit. Low risk sites which will disturb less than five acres can apply for an Erosivity Waiver.

Exempt Activities – Projects that do not include soil disturbing activities, such as pavement surfacing (Bridge deck seals, Grind/overly Asphalt Concrete Pavements (ACP) and Portland Concrete Cement Pavements (PCCP), Bituminous Surface Treatment (BST, or “Chip Seal” projects), and Safety improvement projects (such as replacement or installation of Jersey barrier, bridge-end attenuation, or guardrail) which do not extend beyond the existing pavement limits. Projects that will discharge all stormwater and non-stormwater to ground water, and have no point source discharge to surface water or a storm sewer system that drains to surface waters. Routine maintenance that is performed to maintain the original purpose of a facility.

Geographic Extent – State of Washington.

Types of Permits – There are two types of NPDES Construction Stormwater Permits: General and Individual. Ecology has issued WSDOT an NPDES and State Waste Discharge General Permit to Discharge Stormwater Associated with Construction. For large construction sites, WSDOT may be required to obtain an individual construction stormwater permit written specifically for the site.

The General Permit, covering construction sites one acre and larger, was reissued in November 2005.

New permit requirements include water quality monitoring. Chapter 6 of the Highway Runoff Manual provides guidance on monitoring. For construction activities where: (1) the stormwater discharge is to Section 303(d) listed waters and includes the pollutant for which the water body is listed, unless it can be documented that no water quality violation will occur; or (2) the discharge is to a

water body subject to a Total Maximum Daily Load (TMDL) determination, unless the discharge would be in compliance with the TMDL contact region environmental or HQ ESO for more information. The current Construction Stormwater General Permit(s) can be viewed for reference at:

 <http://www.ecy.wa.gov/>

Click on Programs, then Water Quality, then Stormwater, then Construction Stormwater General Permit.

Or by direct link:

 <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>

The accompanying fact sheet, including details on Ecology's review process, explanation of permit conditions, and how to apply, is online at:

 <http://www.ecy.wa.gov/>

Click on Programs, then Water Quality, then Stormwater, then Construction Stormwater General Permit, then Download Permit/Fact Sheet, then Construction Stormwater Fact Sheet.

Or by direct link:

 http://www.ecy.wa.gov/programs/wq/stormwater/construction/cnst_fact_fin.pdf

Prerequisite Permits and Approvals – Adherence to the Revised Eastern and Western Washington Highway Runoff Manuals.

Related Permits and Approvals – The SEPA process must be complete and all SEPA appeals resolved before submitting the general stormwater permit application or publishing the public notice. If the SEPA appeal is related to environmental issues, Ecology will not process the application until the appeal has been resolved.

Submitting an application for coverage (Notice of Intent) under the Construction Stormwater General Permit constitutes application for a State Waste Discharge Permit, which is required for discharge of wastewater to groundwater or a publicly owned treatment facility (see [Section 540.12](#)).

The NPDES Municipal Stormwater General Permit applies to the operation and maintenance of WSDOT stormwater facilities within certain geographic areas (see [Section 540.05](#)).

If a construction site acquired by WSDOT is already covered by a Construction Stormwater General Permit, the permit may be transferred if the current owner is in compliance with the permit. The Transfer of Coverage form must be completed and accompanied with an updated permit application.

Interagency Agreements – The November 2004 Compliance Implementing Agreement between WSDOT and Ecology is designed to assist in obtaining and maintaining WSDOT compliance with state water quality standards, including compliance with Section 401 Certifications, Section 402 NPDES permits, Implementing Agreements, and other Ecology Orders and approvals.

The February 1998 Implementing Agreement between Ecology and WSDOT regarding compliance with state surface water quality standards is designed to

ensure that WSDOT activities are in compliance with state surface water quality standards through general and activity-specific conditions. General conditions deal with concrete work, erosion control, spill response, and monitoring. Activity-specific conditions address several categories of work that may effect surface water quality standards. This document is expected to be revised during fall 2005 and be renewed by spring 2006.

Both agreements are online at the WSDOT's ESO Compliance Program web site or by direct link:

 <http://www.wsdot.wa.gov/environment/Programmatics/default.htm#interagency>

Please see **Section 431.04** and **Section 610.03** for other interagency agreements that may be relevant to the construction phase of the project.

Processing Time – The Notice of Intent (NOI) must be submitted on or before the date of the first public notice. Permit coverage is granted on the 31st day following the receipt by Ecology of the completed Notice of Intent.

Fees – Permit fees for fiscal year 2005 range from \$350 to \$925 depending on the number of disturbed acres.

(2) How to Apply

WSDOT and other applicants submit a single sheet Notice of Intent (NOI) requesting coverage under the general permit. Applicants are encouraged to use Ecology's internet-based electronic NOI to apply for permit coverage. Ecology's regional office staff determines whether an individual permit is needed.

Information and application forms for the NPDES Construction Stormwater General Permit is available online at:

 <http://www.ecy.wa.gov/>

Click on Programs, then Water Quality, then Stormwater, then Construction Stormwater General Permit.

Or by direct link:

 <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>

JARPA – Not applicable.

Pre-application Conference – On large WSDOT projects, a pre-application conference is advisable for an early determination of whether an Individual Permit will be needed. Contact the regional Ecology office where the project is located.

Special Information Requirements – The permit requires a Stormwater Pollution Prevention Plan (SWPPP), identifying Best Management Practices (BMPs) to prevent surface water and groundwater pollution. For WSDOT, the SWPPP requirement is met by developing a Temporary Erosion and Sediment Control (TESC) Plan and a Spill Prevention Control and Countermeasures (SPCC) plan. For guidance on stormwater BMPs, see WSDOT's 2004 *Highway Runoff Manual* (M 31-16), described in **Section 431.05**.

If chemical treatment is being considered as a BMP for construction stormwater, please contact region environmental and HQ ESO.

Public Notice – For coverage under the *general permit*, the applicant must publish a public notice at least once a week for two consecutive weeks, with a 7-day time span between dates, in a newspaper of general circulation in the project area. The 30-day public comment period begins on the publication date of the second public notice. Public notice requirements can be viewed online at:

 <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>

Make sure the information on the application and the information in the notice coincide, e.g., the owner's name and address, the total number of acres and acres to be disturbed, construction activity, temporary BMPs, the names of all receiving waters, and whether wetlands in the area have buffers.

Ecology must have the permit application during the public comment period in order to make it available to the application as required by WAC 173-226-130(5).

The public notice may be published simultaneously with other notices such as SEPA notices, and Shoreline Permit notices, provided the NOI is sent to Ecology on or before the date of the first public notice.

For the *individual permit*, Ecology publishes the public notice after receiving a complete application (see below, Agency and Public Review).

Submitting the Application – For the general permit, submit the NOI and public notice to Ecology before the date of the first public notice, and at least 60 days prior to the start of construction. Include a small-scale site map showing the points of stormwater discharge from the site. Issuance of the permit may be delayed if the application and public notice are incomplete or inadequate information has been provided.

The signed NOI and public notice may be sent by fax (360-407-6426), email (lmat461@ecy.wa.gov) or mail to:

Water Quality Program, Stormwater Unit
PO Box 47696
Olympia, WA 98504-7696

Agency and Public Review – Within 30 days of the second public notice, interested parties may submit written comments to Ecology and may request a hearing. Ecology contacts WSDOT for a written response to these comments and usually requests that a copy of the SWPPP be included with the response.

Ecology may request a meeting with WSDOT to review the SWPPP and address any other questions or concerns. Ecology does not approve these plans, but provides technical assistance to help assure compliance with water quality standards and other requirements. Ecology may request WSDOT to revise the plans and resubmit them for further review. The SWPPP, a copy of the General Permit, the permit coverage letter, and a Site Log Book are to be retained on site or within reasonable access to the site, and available to Ecology and local governmental agencies upon request. Chapter 6 of the Highway Runoff Manual and Standard Specification 8-01.3(1)B provide guidance on what should be included in a Site Log Book.

A NOI is not considered complete until the 30-day public notice requirement has been satisfied, the SWPPP has been developed, a final SEPA determination has been made, and all other NOI information has been supplied.

Unless Ecology responds to the complete application in writing, based on public comments, or any other relevant factors, coverage under the general permit will automatically commence on the 31st day following receipt by Ecology of a completed NOI.

If the permit is approved, Ecology publishes a notice of draft permit, allowing another 20 days for public comment.

Appeal Process – Permit decisions can be appealed to the Pollution Control Hearings Board (PCHB) within 30 days of receipt by WSDOT. The PCHB determination may be appealed to superior court. More information is online at:

 http://www.eho.wa.gov/Documents/Pamphlet_PCHB.htm

Post-permitting Requirements – When all stormwater discharges from a construction site have been eliminated and the site has undergone final stabilization, WSDOT submits a Notice of Termination to the Ecology. Instructions and application are available online at:

 <http://www.ecy.wa.gov/biblio/ecy02087.html>

(3) For More Information

For information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance, please refer to **Chapter 431**, Water Quality/Surface Water; **Chapter 432**, Floodplain; **Chapter 437**, Wetlands; **Chapter 452**, Coastal Areas and Shorelines; and **Chapter 453**, Wild and Scenic Rivers. For information on water quality procedures during construction see **Section 620.04**.

Ecology's guidance document on applying for coverage under the Construction Stormwater General Permit is online at:

 <http://www.ecy.wa.gov/pubs/9937.pdf>

Ecology's stormwater home page includes links to other technical information that may be useful for implementing the Stormwater Construction general permit.

 <http://www.ecy.wa.gov/programs/wq/stormwater/index.html>

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see **Appendix G** for list of contacts). Other assistance is available from WSDOT's Environmental Services Office; call Mike Stephens at 360-570-6656, or email StepheM@wsdot.wa.gov.

For Ecology assistance with drafting the public notice or completing the application, contact Linda Matlock at 360-407-6437, lmat461@ecy.wa.gov.

(5) Information Last Updated

May 5, 2005.

540.05 NPDES Municipal Stormwater Permit (General)

(1) Overview

The National Pollutant Discharge Elimination System (NPDES) permit program was created under Section 402 of the Clean Water Act. Ecology has been delegated by the U.S. Environmental Protection Agency (USEPA) to administer the program in Washington, and does so in conjunction with its' State Waste Discharge Permit program. The goal of the program is to reduce or eliminate pollution and other impacts to waters of the state. The NPDES Municipal Stormwater Permit authorizes stormwater discharges to surface water or groundwater from municipal storm sewer systems, i.e. systems operated by municipalities or public agencies like WSDOT.

WSDOT is required to obtain coverage under NPDES municipal stormwater permits to control stormwater discharges during construction and for the long-term operation and maintenance of its facilities. The permits cover WSDOT-operated municipal separate storm sewers that are located within permitted municipalities (those with separate storm sewer systems serving populations over 100,000).

These municipal permits are watershed specific. The permits authorize stormwater discharges into ground and surface waters during a five-year period. For other groundwater-related permits see [Section 540.12](#) and [Section 540.14](#).

WSDOT currently has coverage for four watershed areas: Island/Snohomish, Cedar/Green, South Puget Sound, and Columbia Gorge watersheds. When issued, Phase 2 NPDES Separate Storm Sewer System (MS4) permits, also known as Phase 2 permits, will add coverage for an additional 78 cities and eight counties statewide with populations over 10,000. WSDOT is currently considering with Ecology to establish one statewide permit to cover all Phase 1 and 2 areas, and a separate permit for WSDOT.

If these changes have taken effect, WSDOT will need only to apply for coverage under the WSDOT general permit.

The proposed/draft WSDOT NPDES Municipal Stormwater and State Waste Discharge General Permit is available online at:

 <http://www.wsdot.wa.gov/environment/wqec/docs/MS4NPDESSWPermitApplication.pdf>

WSDOT's permit is scheduled to be issued in 2006. The proposed NPDES permit schedules for Eastern and Western Washington can be viewed at:

 http://www.ecy.wa.gov/programs/wq/stormwater/general_permits_schedule.htm

Agency Issuing Permit – Washington State Department of Ecology.

Statutory Authority – Clean Water Act Section 402 (33 USC 1342); 40 CFR Parts 122, 123 and 124 Subchapter D; WAC 173-226 (general permits).

Regulated Activities – WSDOT is required to obtain coverage under an NPDES municipal stormwater permit when construction activities and/or long-term

operation and maintenance of its facilities result in stormwater discharge to a municipal separate storm sewer system.

Discharges from agricultural runoff, irrigation return flows, process and non-process wastewaters from industrial activities, and stormwater runoff from areas served by combined sewer systems are not regulated directly by these permits. These types of discharges may be regulated by local or other state requirements if they discharge to municipal separate storm sewers. The municipal NPDES stormwater permits authorize the municipal separate storm sewer to discharge stormwater originating from industrial facilities. However, many industrial activities need an industrial stormwater NPDES permit issued by Ecology to discharge stormwater into municipal storm sewers (see [Section 540.07](#), NPDES Industrial Stormwater General Permit).

Geographic Extent – WSDOT’s current coverage includes four watershed areas: Island/Snohomish, Cedar/Green, South Puget Sound, and Columbia Gorge. WSDOT staff can view these watersheds using the WSDOT GIS Workbench. For information on how to access the GIS Workbench, see:

 <http://www.wsdot.wa.gov/environment/envinfo/default.htm>

Under the statewide WSDOT general permit, the geographic extent will include areas covered by Phase I and II of the municipal stormwater permit program; i.e., any permitted municipality with a separate municipal storm sewer system serving populations greater than 100,000 (Phase I) or 10,000 (Phase II). Permit coverage maps may be viewed online at:

 <http://www.wsdot.wa.gov/environment/wqec/#NPDES>

Types of Permits – The NPDES Municipal Stormwater Permit is a general permit covering categories of activities.

Related Permits and Approvals – Each municipal stormwater permit requires implementation of a Stormwater Management Program. The Stormwater Management Program is a plan for the term of the permit to reduce the discharge of pollutants, reduce impacts to receiving waters, eliminate illicit discharges, and make progress towards compliance with surface water, ground water and sediment standards. WSDOT is required to update its 1997 Stormwater Management Plan to qualify for coverage under the new statewide NPDES Municipal Stormwater Permit.

The NPDES Construction Stormwater General Permit applies to WSDOT projects from sites one acre or larger (see [Section 540.04](#)).

Interagency Agreements – See [Section 540.04](#) and [Section 431.04](#) for information on Implementing Agreements between WSDOT and Ecology regarding compliance with state water quality standards and other applicable agreements.

Processing Time – Not applicable.

(2) **How to Apply**

Individual projects are not required to apply for coverage under the general permit. Ecology issues the general permit to WSDOT and the permit is effective for five years. Projects that occur within the areas covered by the permit must

comply with the terms of the permit. In general, this requires adherence to WSDOT's 2004 *Highway Runoff Manual* which includes design standards for stormwater discharges.

JARPA – Not applicable.

Pre-application Conference – Not applicable.

Special Information Requirements – Additional requirements apply to projects that discharge to 303(d)-listed water bodies or water bodies for which Total Maximum Daily Loads (TMDL) have been developed. Guidance for how to address common additional requirements is included in the 2004 *Highway Runoff Manual*.

The current 303(d) list and TMDL data is available through the WSDOT internal GIS library:

W:\Data\GIS\GISOSC\GEODATA

For a list of current data sets, see WSDOT's environmental web site:

 <http://www.wsdot.wa.gov/environment/>

Click on Maps & Data, then GIS Data Distribution Catalog.

Or by direct link:

 <http://www.wsdot.wa.gov/mapsdata/geodatacatalog/default.htm>

The data is stored by: watercourses (rivers and streams), water bodies (lakes), and estuaries. Use the GIS to determine the impairment parameters of a particular water body. Use the *Environmental GIS Workbench* to review the 303(d)-listed waterbodies themes through the water quality section. Use the related parameter tables to view all impairments or query all features for a given parameter (the tables are already cross-linked).

Information about 303(d)-listed water bodies and water bodies that have TMDLs is also available on Ecology's web site at:

 http://www.ecy.wa.gov/programs/wq/links/impaired_wtrs.html

and

 <http://www.ecy.wa.gov/programs/wq/tmdl/index.html>

Public Notice – Ecology issues public notice at the time WSDOT applies for coverage under the general permit. Once the permit is issued and coverage is approved, individual projects do not require public notice.

Submitting the Application – Not applicable.

Agency and Public Review – Not applicable to individual projects.

Appeal Process – Not applicable to individual projects.

(3) **For More Information**

For information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance, please refer to **Chapter 431**, Water Quality/Surface

Water; **Chapter 432**, Floodplain; **Chapter 437**, Wetlands; **Chapter 452**, Coastal Areas and Shorelines; and **Chapter 453**, Wild and Scenic Rivers. For information on water quality procedures during construction see **Section 620.04**.

More information from Ecology about Municipal Stormwater Permits is online at:

 <http://www.ecy.wa.gov/programs/wq/stormwater/municipal/index.html>

For more information on WSDOT's stormwater management program, including the application submitted to Ecology for the statewide stormwater permit in March 2003, NPDES Annual Progress Reports, and WSDOT's revised *Highway Runoff Manual*, see:

 <http://www.wsdot.wa.gov/environment/wqec/#NPDES>

WSDOT Highway Runoff Manual – WSDOT's 2004 Highway Runoff Manual includes design standards for stormwater discharges (see **Section 431.05**).

(4) Permit Assistance

For assistance in obtaining coverage under WSDOT's municipal stormwater general permit, contact Larry Schaffner, 360-570-6657, SchaffL@wsdot.wa.gov.

For individual project questions, contact Richard Tveten, 360-705-6648, TvetenR@wsdot.wa.gov.

(5) Information Last Updated

May 31, 2005.

540.06 NPDES Sand and Gravel Permit (General and Individual)

(1) Overview

The National Pollutant Discharge Elimination System (NPDES) permit program was created under Section 402 of the Clean Water Act. Ecology has been delegated by the U.S. Environmental Protection Agency (USEPA) to administer the program in Washington and does so in conjunction with its State Waste Discharge Permit program. The goal of the program is to reduce or eliminate pollution and other impacts to waters of the state. The NPDES Sand and Gravel permit authorizes the discharge of pollutants from sand and gravel mining operations and related facilities into surface water and groundwater subject to permit conditions. These conditions require WSDOT to provide environmental protection through BMPs and wastewater treatment.

Agency Issuing Permit – Washington State Department of Ecology.

Statutory Authority – Clean Water Act Section 402 (33 USC 1342); 40 CFR Parts 122, 123 and 124 Subchapter D; WAC 173-226 (general permits).

Regulated Activities – Ecology regulates a variety of sand and gravel related activities based on the Standard Industrial Classification Code (SIC). The most relevant SIC categories for WSDOT are:

1442 Construction Sand and Gravel
2951 Asphalt Paving Mixtures and Blocks
3273 Ready-Mixed Concrete

An application for coverage under the general permit should be submitted for any proposed WSDOT facility that falls within the covered activities (SIC codes). Facilities that are ineligible for coverage under the general permit typically require an individual permit.

Geographic Extent – State of Washington.

Types of Permits – There are two types of permits, General and Individual. Ecology has re-issued the NPDES and State Waste Discharge Sand and Gravel General Permit, effective February 5, 2005. This general permit provides coverage for discharges of process water, stormwater, and mine dewatering water associated with sand and gravel operations, rock quarries and similar mining activities, including stockpiles of mined materials, concrete batch operations, and hot-mix asphalt operations.

The sand and gravel general permit now provides coverage for a portable facility, the most common type of WSDOT activity subject to the permit. Portable facilities include concrete batch plants, asphalt batch plants, and rock crushers that conduct operations at one site for less than a year. A six-month extension is available. Portable sites must comply with the same permit conditions as permanent sites.

The permit sets a pH limit for ground water discharges and limits turbidity, total suspended solids, and pH in surface water discharges. The permit also includes monitoring of total dissolved solids in discharges of process water from concrete batch operations. The permittee is required to monitor the temperature of discharges to surface water during the summer months. Details on the permit limits and monitoring can be found at Ecology's web site at:

 <http://www.ecy.wa.gov/programs/wq/sand/index.html#announcement>

The General NPDES Sand and Gravel Permits are issued in five year increments, and require a renewal process to be implemented for each specific WSDOT owned site.

Prerequisite Permits and Approvals – Aggregate Source Approval from WSDOT HQ Materials Lab to verify the quality of the source; Surface Mining Permit, issued by Washington State Department of Natural Resources (WDNR), and Section 106 requirement concurrence from FHWA, State Office of Historic Preservation (SHPO), and affected Tribal governments.

Related Permits and Approvals – Permit coverage cannot be issued to a new facility or modified for an existing facility unless applicable SEPA requirements have been satisfied. The SEPA process must be complete and all SEPA appeals resolved before submitting the General Permit application or publishing the public notice. If a SEPA appeal is related to environmental issues, Ecology will not process the application until the appeal has been resolved.

Submitting an application for coverage under the Sand and Gravel General Permit constitutes application for a State Waste Discharge Permit, which is required for discharge of wastewater to groundwater or a publicly owned treatment facility (see [Section 540.12](#)).

If a construction site acquired by WSDOT is already covered by a Sand and Gravel General Permit, the permit may be transferred if the current owner is in

compliance with the permit. The Transfer of Permit Ownership form must be completed and accompanied with an updated permit application. The form is available online at:

 <http://www.ecy.wa.gov/pubs/ecy07032.pdf>

Interagency Agreements – See [Section 540.04](#) and [Section 431.04](#) for information on Implementing Agreements between WSDOT and Ecology regarding compliance with state water quality standards and other applicable agreements.

Processing Time – Applications should be submitted at least 180 days before beginning operations that may result in discharge of a pollutant. Ecology generally notifies applicants of their status within 30 days of receiving the application.

Fees – Ecology has a “Quantity related” fee structure, plus \$1,200 activation and \$60 deactivation fees prorated on a yearly basis; WDNR has a \$1,000/year Surface Mining Permit fee.

(2) How to Apply

WSDOT normally applies for coverage under the General Permit. Ecology's regional office staff determines whether an individual permit is needed. There is a separate application form for portable facilities like portable asphalt, portable concrete, and portable rock crushing applications. A revised application for coverage must be submitted when a permit modification is required.

A downloadable application, instructions and other relevant forms are available online at:

 <http://www.ecy.wa.gov/>

Click on Programs, then Water Quality, then Stormwater, then Sand and Gravel General Permit, then Download Documents.

Or by direct link:

 <http://www.ecy.wa.gov/programs/wq/sand/dwnload.html#App%20Reg>

JARPA – Not applicable.

Pre-application Conference – A pre-application conference is advisable if an Individual permit may be needed. To arrange a conference or obtain other assistance, contact the permit coordinator at the regional Ecology office where the project is located.

Special Information Requirements – The sand and gravel general permit requires a monitoring plan, Stormwater Pollution Prevention Plan (SWPPP), a Temporary Erosion and Sediment Control (TESC) plan, and a spill plan. These planning documents must also be completed for portable facilities. For WSDOT, the SWPPP requirement is met by developing a Stormwater Site Plan (SSP). For guidance on stormwater Best Management Practices (BMPs), see WSDOT's 2004 *Highway Runoff Manual* (M 31-16), described in [Section 431.05](#).

The application requires identifying any designated Critical Aquifer Recharge Area, Wellhead Protection Area or Sole Source Aquifer affected by the

operation. This information is available from the local jurisdiction, regional Ecology office, or USEPA Region 10 office.

Include with the application a small-scale site map showing the points of stormwater discharge from the site.

Public Notice – The applicant prepares the public notice, which is published by Ecology.

Submitting the Application – Submit the Notice of Intent (NOI) and public notice to the Ecology regional office for the county in which the project occurs. See Ecology's web site for addresses of the regional offices.

Agency and Public Review – Public notice of application is required for new facilities or existing facilities planning a significant process change. Ecology publishes this notice once a week for two consecutive weeks in a newspaper of general distribution in the project area. For individual permits the notice is published after receipt of a complete application.

The notice of application gives the public 30 days for comment. For individual permits, Ecology also publishes a notice that the draft permit has been issued, allowing another 20 days for public comment.

Appeal Process – Permit decisions can be appealed to the Pollution Control Hearings Board (PCHB) within 30 days of receipt by WSDOT. The PCHB determination may be appealed to superior court. More information is online at:

 http://www.eho.wa.gov/Documents/Pamphlet_PCHB.htm

Post-permitting Requirements – Ultimate reclamation of the site is required for termination of the WDNr Surface Mining Permit, followed by termination of the NPDES permit held for that specific site

(3) **For More Information**

For information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance, please refer to **Chapter 431**, Water Quality/Surface Water; **Chapter 432**, Floodplain; **Chapter 437**, Wetlands; **Chapter 452**, Coastal Areas and Shorelines; and **Chapter 453**, Wild and Scenic Rivers. For information on water quality procedures during construction see **Section 620.04**.

Guidance on the Sand and Gravel General Permit, including the current general permit and downloadable application forms, is available online at:

 <http://www.ecy.wa.gov/>

Click on Programs, then Water Quality, then Stormwater, then Sand and Gravel General Permit

Or by direct link:

 <http://www.ecy.wa.gov/programs/wq/sand/index.html>

Ecology's stormwater homepage includes links to other technical information that may be useful for implementing the sand and gravel general permit.

 <http://www.ecy.wa.gov/programs/wq/stormwater/index.html>

For other information, please see references in [Section 540.04](#), Construction Stormwater Permit.

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see [Appendix G](#) for list of contacts). For additional assistance, contact Doug Pierce, WSDOT Maintenance Director, 360-705-7812, PierceDL@wsdot.wa.gov.

For general questions about the Sand and Gravel General Permit, please contact Jeff Killelea at 360-407-6127 or jkil461@ecy.wa.gov. For site-related issues, contact the Ecology regional office where the proposed project is located. See Ecology's web site for a list of regional contact people.

(5) Information Last Updated

May 4, 2005.

540.07 NPDES Industrial Stormwater Permit (General)

(1) Overview

The National Pollutant Discharge Elimination System (NPDES) permit program was created under Section 402 of the Clean Water Act. Ecology has been delegated by U.S. Environmental Protection Agency (USEPA) to administer the program in Washington and does so in conjunction with its State Waste Discharge Permit program. The goal of the program is to reduce or eliminate pollution and other impacts to waters of the state. The Industrial Stormwater General permit authorizes discharges to surface water or a storm sewer from certain types of industrial facilities.

Ecology has prepared a schematic diagram illustrating the Industrial Stormwater General Permit application and review process. The schematic is in [Exhibit 540-4](#) and online at:

 http://www.ecy.wa.gov/programs/sea/pac/ppds_info/Industrial_Stormwater_Schematic.pdf

Agency Issuing Permit – Washington State Department of Ecology.

Statutory Authority – Clean Water Act Section 402 (33 USC 1342); 40 CFR Parts 122, 123 and 124 Subchapter D; WAC 173-226 (general permits).

Regulated Activities – The industrial stormwater general permit applies to stormwater runoff or discharges to surface water and/or storm drains from facilities listed on Ecology's Application Instructions, available online at:

 http://www.ecy.wa.gov/programs/wq/stormwater/industrial/app_instr_10-02.pdf

Exempt Activities – No permit is required if all the stormwater from WSDOT's facility discharges to ground and/or to a combined storm/sanitary sewer.

Facilities that have no industrial activities or materials exposed to stormwater may be eligible for a "conditional no exposure certificate." To apply, use Ecology's electronic applications system accessed at:

 <http://apps.ecy.wa.gov/stormwaterexempt/>

Geographic Extent – State of Washington.

Types of Permits – Ecology has issued an NPDES and State Waste Discharge General Permit to Discharge Stormwater Associated with Industrial Activity for industries having specific Standard Industrial Classification (SIC) codes. The most relevant SIC categories for WSDOT are transportation facilities which have vehicle maintenance shops, including vehicle rehabilitation, mechanical repairs, painting, fueling and lubrication, and water transportation. Coverage under the Industrial Stormwater General permit is required for WSDOT ferry facilities that provide fueled vehicles to remove stalled vehicles from docks. The Washington State Ferry maintenance facility at Eagle Harbor is covered by this permit.

Permits typically place limits on the quantity and concentration of pollutants that may be discharged. Some limits are set by regulation while others may be set on a case-by-case basis. Permits may also require operational conditions called Best Management Practices (BMPs). To ensure compliance with these limits and conditions, permits require monitoring and reporting.

Related Permits and Approvals – Submitting an application for coverage under the Industrial Stormwater General Permit constitutes application for a State Waste Discharge Permit, which is required if the facility discharges wastewater to groundwater or a publicly owned treatment facility (see [Section 540.12](#)).

Interagency Agreements – See [Section 540.04](#) and [Section 431.04](#) for information on Implementing Agreements between WSDOT and Ecology regarding compliance with state water quality standards and other applicable agreements.

Processing Time – There is a 30-day public review of the notice of application.

(2) How to Apply

The Notice of Intent (NOI) for coverage under the Industrial General Stormwater Permit can be downloaded from:

 http://www.ecy.wa.gov/programs/wq/stormwater/industrial/app_05-03.pdf

JARPA – Not applicable.

Pre-application Conference – Not applicable with the NOI.

Special Information Requirements – The general stormwater permit requires operators of industrial facilities to develop a Stormwater Pollution Prevention Plan (SWPPP). These plans should identify existing and potential sources of stormwater pollution, and describe how the operator will reduce or eliminate that pollution.

Include a site map with the SWPPP showing the discharge locations from the property.

Most facilities will request a mixing zone. A mixing zone will only be allowed for pollutants not covered by a 303(d) listed water body. Certain conditions must be met before Ecology will approve a mixing zone. Please see the application instructions on Ecology's web site at:

 http://www.ecy.wa.gov/programs/wq/stormwater/industrial/app_instr_10-02.pdf

Public Notice – For coverage under the general permit, the applicant must publish the public notice once each week for two consecutive weeks, at least seven days apart, in a newspaper of general circulation within the county in which the discharge is proposed. Ecology no longer requires submittal of the affidavit of publication. WSDOT must instead provide the dates that the first and second public notices will appear and the name of the newspaper which will run the public notices. A copy of the notice to be published must also be submitted along with the NOI.

The public notice may be published simultaneously with other notices such as State Environmental Policy Act notices, and Shoreline Permit notices provided the NOI is sent to Ecology on or before the date of the first public notice.

Submitting the Application – Submit the NOI or application for an individual permit:

Washington State Department of Ecology
Water Quality Program – Industrial Stormwater
PO Box 47696
Olympia, WA 98504-7696

Agency and Public Review – For general permits, the public has up to 30 days after the second publication to comment on the proposal or request a hearing. Permit coverage will not be granted sooner than 31 days from the date of the second public notice. Applicants are notified as to coverage under the permit within 30 days of completing the application requirements. If the applicant does not receive notification from Ecology, coverage under the permit automatically commences on the 31st day following receipt by Ecology of a completed NOI.

Appeal Process – Permit decisions can be appealed to the Pollution Control Hearings Board within 30 days of receipt by WSDOT. The PCHB determination may be appealed to superior court. More information is online at:

 http://www.eho.wa.gov/Documents/Pamphlet_PCHB.htm

(3) **For More Information**

Ecology has a manual, entitled *Stormwater Pollution Prevention Planning for Industrial Facilities*, to help industries develop stormwater pollution prevention plans. This document guides facility operators through the process of developing a plan, and includes descriptions of practices that may be required at a facility. For a copy of the guidance document, call the Ecology request line at 360-407-7156.

Further information on the Industrial Stormwater general permit is online at:

 <http://www.ecy.wa.gov/programs/wq/stormwater/industrial/index.html#Download>

For information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance, please refer to **Chapter 431**, Water Quality/Surface Water; **Chapter 432**, Floodplain; **Chapter 437**, Wetlands; **Chapter 452**, Coastal

Areas and Shorelines; and [Chapter 453](#), Wild and Scenic Rivers. For information on water quality procedures during construction see [Section 620.04](#).

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see [Appendix G](#) for list of contacts). Other assistance is available from WSDOT's Environmental Services Office; call Gregor Myhr, Permit Program Manager, 360-705-7487 or MyhrG@wsdot.wa.gov. For assistance from Ecology, contact Joyce Smith, 360-407-6858, josm461@ecy.wa.gov.

(5) Information Last Updated

May 4, 2005.

540.08 Other NPDES Permits (Programmatic) – Routine WSDOT Programs

(1) Overview

The National Pollutant Discharge Elimination System (NPDES) permit program was created under Section 402 of the Clean Water Act. Ecology has been delegated by U.S. Environmental Protection Agency (USEPA) to administer the program in Washington and does so in conjunction with its State Waste Discharge Permit program. The goal of the program is to reduce or eliminate pollution and other impacts to waters of the state.

Ecology has issued four NPDES programmatic permits applicable to WSDOT. Three of the permits are issued as general permits and one is issued as an individual industrial permit. They authorize pollutant discharges to surface waters for certain activities, subject to specific permit conditions. These permits cover the following WSDOT maintenance activities: washing and painting of bridges and ferry terminals; nuisance aquatic plant and algae control, noxious aquatic plant control, and aquatic mosquito control.

These permits are reissued annually or every five years; otherwise no application is necessary. However, each permit has specific notification and reporting requirements for which WSDOT staff are responsible.

Agency Issuing Permit – Washington State Department of Ecology

Statutory Authority – Clean Water Act Section 402 (33 USC 1342); 40 CFR Parts 122, 123, and 124 Subchapter D; WAC 173-226 (general permits).

Regulated Activities – Activities regulated by the programmatic permits are:

- Washing and painting of bridges and ferry terminals – Includes discharges from low pressure maintenance washing and high pressure washing in preparation for painting of bridges and ferry terminals. For maintenance washing and preparation washing, the permits include specific timing restrictions, which differ between Eastern and Western Washington.
- Nuisance aquatic plant and algae control – Activities that discharge herbicides or algacides directly or indirectly into surface waters of the state; also activities that control algae indirectly through addition of aluminum sulfate to control phosphorus. “Indirect application” means application of glyphosate to emergent vegetation for control of nuisance or


noxious vegetation along public highways or in constructed or mitigated wetlands containing wetted surface at the time of the application, or which will contain wetted surfaces during the life of the active component of the herbicide.

- Noxious aquatic plant control – Noxious and quarantine-list weed control activities that discharge herbicides directly into waters of the state, including water bodies that are contiguous with rivers, creeks, and lakes, or into navigable waters, or other situations determined by Ecology.
- Aquatic mosquito control – All mosquito control activities that discharge insecticides directly into surface waters of the state; and pre-adult life stage pesticide activities discharging into water bodies listed above.

Exempt Activities – Weed control activities with herbicides conducted on seasonally dry land surfaces where the bio-available active ingredient does not persist at the time of water return are not required to be covered under these permits.

Geographic Extent – State of Washington.

Types of Permits – An NPDES Individual Industrial Permit was issued to WSDOT for washing and painting of bridges and ferry terminals. The other three are statewide NPDES General Permits, under which WSDOT has coverage. The noxious weed permit is issued to the Washington State Department of Agriculture and the mosquito control permit is issued to the Washington State Department of Health. In turn, the agencies administer the permits and annually extend permit coverage to third party applicants such as WSDOT. Each year, WSDOT applies to the Departments of Agriculture and Health, respectively, for coverage under the noxious weed and mosquito control permits. The activities currently covered under the three general permits may be included in a new WSDOT Statewide General Permit for Stormwater. For the current status, see:

 http://www.ecy.wa.gov/programs/wq/stormwater/municipal/issue_permits.html#draft_permits

Prerequisite Permits and Approvals – Not applicable.

Related Permits and Approvals – For overwater bridge and ferry terminal washing and pre-painting activities covered by WSDOT's NPDES permit, the conditions of WDFW's HPA programmatic permit for bridge and ferry terminal cleaning, painting and general maintenance and repair also apply (see [Section 540.15](#)). Specific guidance for each permit is on the WSDOT ESO web site (see For More Information below) and conditions are in the HPA programmatic permit appendices:

- Bridge Maintenance Washing and Cleaning – Appendix B
- Ferry Terminal Washing, Cleaning and Marine Growth Removal – Appendix F
- Bridge Paint-Prep Washing and Blasting – Appendix C
- Ferry Terminal Paint-Prep Washing and Blasting – Appendix G

Ferry terminal paint-prep washing and abrasive blasting is exempt from Department of the Army (Corps) Section 404 and Section 10 permit requirements. The other activities authorized by WSDOT's NPDES Industrial Permit may be subject to other federal, state, and local laws.

Under the Talent decision, the courts have expanded Section 404 jurisdiction to include roadside ditches that are tributaries to waters of the U.S. (see [Section 520.02](#)). This may affect application of aquatic herbicides to roadside ditches for control of mosquitoes or noxious or nuisance aquatic plants. WSDOT's Environmental Services Office is monitoring the application of the Talent Ruling and details of how it applies to WSDOT activities may be found at:

 <http://www.wsdot.wa.gov/environment/Talent/default.htm>

WSDOT employees applying pesticides or herbicides for control of mosquitoes, or noxious or nuisance aquatic plants, are required to have a current operator's license with an aquatic endorsement. Applicator licenses and endorsements are verified by the Department of Agriculture in December of each year. Newly licensed or employed staff must submit their applicator license information to agriculture prior to spraying aquatic pesticides. Contact the ESO (see Permit Assistance below) for help in submitting licenses information to Agriculture during the year.

WSDOT contractors are not covered under the herbicide and pesticide programmatic permits and must obtain their own permit coverage.

Interagency Agreements – See [Section 540.04](#) and [Section 431.04](#) for information on Implementing Agreements between WSDOT and Ecology regarding compliance with state water quality standards and other applicable agreements.

The 1993 Implementing Agreement between WSDOT and Ecology on hazardous waste management includes procedures for emergency spills of hazardous substances (see [Section 447.04](#)).

For control of noxious weeds, WSDOT has agreed to work with Conservation Districts through County Weed Control Boards or appropriate county officials, under a 1982 Memorandum of Understanding with the Washington State Conservation Commission (see [Section 454.04](#)).

Processing Time – Not applicable. WSDOT has already received coverage for the general permits and has been issued the industrial permit.

Fees – None.

(2) How to Apply

The NPDES permits listed above have already been issued to WSDOT so no application is necessary for the specific activities covered by these permits. However, each permit has notification and reporting requirements (see below, Post-Permitting Requirements).

JARPA – Not applicable.

Pre-application Conference – Not applicable.

Special Information Requirements – Not applicable.

Public Notice – Not applicable.

Submitting the Application – Not applicable.

Agency and Public Review – Not applicable.

Appeal Process – Not applicable.

Post-permitting Requirements – Permit coordinators getting work covered under the programmatic permit are responsible for reviewing copies of the permit, conditions, and guidance (available online, see below, For More Information). Notification and reporting requirements are specific to each permit. For details, see the permit documents and WSDOT guidance referenced below.

Notification requirements may include notifying resource agencies prior to the activity covered by these permits and/or posting at the site for spraying activities. Compliance reports must be filled in after project completion; these are compiled annually by WSDOT Regional Environmental Offices and submitted to Maintenance and Operations Environmental staff at headquarters.

(3) For More Information

For information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance, please refer to **Chapter 431**, Water Quality/Surface Water; **Chapter 432**, Floodplain; **Chapter 437**, Wetlands; **Chapter 452**, Coastal Areas and Shorelines; and **Chapter 453**, Wild and Scenic Rivers. For information on water quality procedures during construction see **Section 620.04**.

WSDOT's ESO web site has links to the NPDES and HPA programmatic permits, with conditions, fact sheets and other guidance specific to each permit, and a copy of the Programmatic Permit Reporting Form:

 <http://www.wsdot.wa.gov/environment/>

Click on Programmatic Permits, then links for NPDES or HPA permits.

Or by direct link:

 <http://www.wsdot.wa.gov/environment/Programmatics/default.htm>

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see **Appendix G** for list of contacts).

For general questions on programmatic permits, contact Joel Gjuka, ESO Compliance Branch, programmatic permits, 360-705-7490, GjukaJo@wsdot.wa.gov; or Gregor Myhr, ESO Permit Program Manager, 360-705-7487, MyhrG@wsdot.wa.gov.

For reporting questions, contact: Kojo Fordjour, Washington State Ferries Permitting and Environmental Manager, bridge and ferry terminal washing, 206-515-3650; Ray Willard, Maintenance and Operations Environmental Office, 360-705-7865, nuisance and noxious plants; and Norm Payton, HQ Maintenance, 360-705-7848, mosquito control.

540.09 Reserved

540.10 Reserved

540.11 Reserved

540.12 State Waste Discharge Permit

(1) Overview

A State Waste Discharge Permit (SWDP) is required for discharges of industrial wastewater to land (potential impact on groundwater) or to a municipal waste treatment facility; and discharges of domestic sewage over 14,500 gallons per day (gpd) to groundwater.

SWDPs typically place limits on the quantity and concentration of pollutants that may be discharged. Some limits are set by regulation while others may be set on a case-by-case basis. Permits may also require BMPs as operational conditions. To ensure compliance with these limits and conditions, permits require monitoring and reporting. Most permits have a five-year life span.

Ecology has prepared a schematic diagram illustrating the State Waste Discharge Permit application and review process. The schematic is in [Exhibit 540-5](#) and online at:

 http://www.ecy.wa.gov/programs/sea/pac/ppds_info/state_wastewater_discharge_permit.pdf

Agency Issuing Permit – Washington State Department of Ecology.

Statutory Authority – RCW 90.48; WAC 173-216; WAC 173-240 (large on-site sewage disposal systems).

Regulated Activities – Planned discharge of wastewater to the ground or discharge of wastewater other than domestic sewage, to a municipal treatment plant (Publicly Owned Treatment Works, or POTW). The SWDP is also used to authorize discharge of domestic sewage to ground, including on-site sewage systems exceeding 14,500 gpd, and systems using mechanical treatment or infiltration lagoons with design flows above 3,500 gpd. It is also used to authorize the discharge of reclaimed water.

Exempt Activities – The SWDP program is complementary to the other water quality permits administered by Ecology. It does not cover the following:

- The Underground Injection Program under WAC 173-218 (see [Section 540.14](#)).
- NPDES Industrial permits issued for point source discharges under WAC 173-220.
- Waste discharge general permits issued for non-point-source discharges under WAC 173-226 (see [Sections 540.04](#) and [540.05](#)).

- Discharge of pollutants to isolated wetlands, which is regulated through administrative order (see [Section 540.13](#)).

Also see below, Related Permits and Approvals.

Geographic Extent – State of Washington.

Types of Permits – There are two types of State Waste Discharge Permit, General and Individual. The NPDES and State Waste Discharge permits are combined for NPDES Construction Stormwater, Sand and Gravel, and Industrial Stormwater General Permits. Other SWDPs are considered individual permits.

Prerequisite Permits and Approvals – Not applicable.

Related Permits and Approvals – Discharge of domestic sewage between 3,500 and 14,500 gpd is regulated by an onsite sewage permit from the Washington State Department of Health (DOH) (see [Section 540.21](#)); discharge under 3,500 gpd is regulated by local onsite sewage permits (see [Section 550.10](#)). For on-site sewage disposal facilities, contact the local health department for any additional local requirements.

Interagency Agreements – See [Section 540.04](#) and [Section 431.04](#) for information on Implementing Agreements between WSDOT and Ecology regarding compliance with state water quality standards and other applicable agreements.

Processing Time – Ecology is required to take action within 60 days of receiving a complete application. If no action is taken, the applicant receives a temporary permit.

Fees – See fee schedule, WAC 173-224.

(2) **How to Apply**

Applications for State Waste Discharge Permits are online and can be downloaded at:

 <http://www.ecy.wa.gov/programs/wq/wastewater/index.html#potw>

There are separate applications for discharge of industrial wastewater to groundwater, industrial wastewater to a municipal treatment facility, and municipal wastewater (domestic sewage) to groundwater.

JARPA – Not applicable.

Pre-application Conference – Advisable for most applications.

Special Information Requirements – The application requires information on pollutants in the waste stream, materials which may enter the waste stream, flow characteristics of the discharge, and site characteristics at the point of discharge. After receiving the application, Ecology may request additional information.

An engineering report is required for large on-site sewage systems, which are reviewed under WAC 173-240. The first page of the permit application is submitted as the cover sheet for the engineering report.

Public Notice – WSDOT publishes a notice of application twice in two consecutive weeks, giving the public 30 days for comment.

Submitting the Application – Mail the completed application to the Ecology regional office where the project is located. Larger projects may be permitted through Ecology headquarters:

Department of Ecology
Water Quality Program
300 Desmond Drive
P.O. Box 47600
Olympia, WA 98504-7600

Agency and Public Review – If the permit is approved, Ecology publishes a notice of draft permit, allowing another 30 days for public comment. A public hearing may be required if the permit is controversial.

Appeal Process – Permit decisions can be appealed to the Pollution Control Hearings Board within 30 days of receipt by WSDOT.

Post-permitting Requirements – Meet the requirements of the permit.

(3) For More Information

For information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance, please refer to **Chapter 431**, Water Quality/Surface Water; and **Chapter 433**, Groundwater.

For general information about wastewater discharge permits in Washington, see:

 <http://www.ecy.wa.gov/programs/wq/wastewater/index.html>

and

 <http://www.ecy.wa.gov/biblio/wqr019.html>

The Waste Discharge General Permit rule is being amended to bring consistency with the Underground Injection Control Program rules. More information can be found at:

 <http://www.ecy.wa.gov/laws-rules/activity/wac173226.html>

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see Appendix G for list of contacts). Other assistance is available from WSDOT's Environmental Affairs Office. Call Mike Stephens at 360-570-6656, or email StepheM@wsdot.wa.gov. Technical assistance is also available from permit coordinators at Ecology regional offices, or Gary Bailey, water quality staff at Ecology headquarters, 360-407-6433, Gbai461@ecy.wa.gov.

(5) Information Last Updated

May 24, 2005.

540.13 Isolated Wetlands – Administrative Order

(1) **Overview**

Isolated wetlands are defined as wetlands not connected by surface hydrology to recognized water bodies such as rivers, streams, lakes and bays. These wetlands were removed from Section 404 jurisdiction by the U.S. Supreme Court in *SWANCC v. U.S. Army Corps of Engineers*.

Ecology has broad authority under the Water Pollution Control Act to control and prevent the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, and other waters of the state. Isolated wetlands are considered waters of the state. Ecology may prevent any activity that causes pollution.

Agency Issuing Permit – Washington State Department of Ecology.

Statutory Authority – RCW 90.48.

Regulated Activities – Activity that may cause pollution, including discharge of fill or other alteration of the physical, chemical, or biological properties of isolated wetlands.

Exempt Activities – None.

Geographic Extent – State of Washington.

Types of Permits – Ecology issues Administrative Orders for isolated wetlands.

Prerequisite Permits and Approvals – Ecology requires a jurisdictional determination from the Corps that it does not have authority under Section 404 of the federal Clean Water Act to regulate the wetland in question (see [Section 520.02](#)). WSDOT may request a jurisdictional determination directly or submit a JARPA and receive the Corps determination as part of a larger project with both isolated and jurisdictional wetlands.

Related Permits and Approvals – Local governments also regulate many isolated wetlands through their critical areas ordinances (see [Section 550.04](#)).

Interagency Agreements – None applicable.

Processing Time – Approximately 90 days after submittal of a complete application that includes the jurisdictional determination from the Corps.

Fees – None.

A more detailed overview of how isolated wetlands are regulated is provided in a guidance paper available at:

 http://www.wsdot.wa.gov/environment/biology/wet_policypapers.htm

(2) **How to Apply**

Ecology's Isolated Wetlands Information Sheet is submitted with the JARPA form for activities affecting isolated wetlands. This form requires specific wetland information such as delineation data sheets, functions assessment, category rating forms, and mitigation plan. Include the jurisdictional determination letter from the Corps.

The Isolated Wetlands Information Sheet is on Ecology's web site at:

 <http://www.ecy.wa.gov>

Click on Services, then Permitting, then Environmental Permitting Services, then under the heading Helpful Publications click on Isolated Wetlands Information.

Or by direct link:

 <http://www.ecy.wa.gov/programs/sea/pac/pdf/IsolatedWetlandsInfoSheet.pdf>

JARPA – The JARPA form can be downloaded from the Ecology web site:

 <http://www.ecy.wa.gov/>

Click on Services, then Permitting, then Environmental Services and under the heading of Permit Applications click on Joint Aquatic Resource Permit Application (JARPA).

Or by direct link:

 <http://www.ecy.wa.gov/programs/sea/pac/jarpa.html>

Washington's Office of Regulatory Assistance has developed an electronic tool for using the JARPA. The tool can be accessed at:

 <http://www.one-stop-jarpa.org/>

Pre-application Conference – To set up a pre-application conference contact Penny Kelley, transportation liaison/isolated wetland coordinator at 360-407-7298 or by e-mail at pkel461@ecy.wa.gov.

Special Information Requirements – For a pre-application meeting information on the project, size and category of wetland(s) and amount of impact and any information on proposed mitigation if available.

Public Notice – Not applicable.

Submitting the Application – Submit the application materials to:

Penny Kelley
Transportation Liaison/Isolated Wetlands Coordinator for WSDOT
Headquarters
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7775

Agency and Public Review – There is no agency or public review of administrative orders for isolated wetlands. Ecology has an internal review process for administrative orders. SEPA review is not required to issue the order. However, if the isolated wetland impacts are part of a larger project requiring other permits or where jurisdictional wetlands are present, SEPA review is required for the project.

Appeal Process – An applicant may appeal the conditions of the administrative order to the Pollution Control Hearings Board.

Post-permitting Requirements – The WSDOT construction office is responsible for submitting an as-built report within six months of completing site construction. Annual monitoring reports are required as part of the normal

reporting cycle. Annual monitoring reports are due by March 31st of each year for the previous year's monitoring activities. These are included as conditions in the administrative order.

(3) For More Information

For information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance, please refer to **Chapter 431**, Water Quality/Surface Water; and **Chapter 437**, Wetlands. See also **Section 520.02**, Section 404 permit; and **Section 540.12**, State Waste Discharge Permit. For information on water quality procedures during construction see **Section 620.04**.

An Ecology Focus Sheet on changes in the regulatory process for isolated wetlands is online at:

 <http://www.ecy.wa.gov/pubs/0106020.pdf>

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see **Appendix G** for list of contacts). Other assistance is available from WSDOT's Environmental Services Office. Call Bob Thomas at 360-705-7405 or email ThomasBo@wsdot.wa.gov. For assistance from Ecology, contact Penny Kelley, Transportation Liaison at 360-407-7298 or by e-mail at pkel461@ecy.wa.gov.

(5) Information Last Updated

May 26, 2005.

540.14 Underground Injection Control Registration

(1) Overview

The federal Safe Drinking Water Act establishes an Underground Injection Control (UIC) program to protect groundwater quality by regulating the disposal of fluids into the subsurface. Most UIC wells are simple devices that allow fluids into the shallow subsurface under the force of gravity. In Washington, thousands of UIC wells, mainly dry wells, are located along parking lots and roads to manage stormwater runoff. The potential for groundwater contamination from UIC wells can occur and is dependent on the well construction and location, the volume and quality of the fluids injected and the hydrogeologic setting.

Ecology is authorized by the U.S. Environmental Protection Agency (USEPA) to administer the UIC program in Washington. The program is rule authorized, which means the wells have to be registered but do not require a permit. Ecology is revising the UIC rule as of January 2005.

Agency Issuing Permit – Washington State Department of Ecology.

Statutory Authority – 42 USC 300h *et seq.*; 40 CFR 144; RCW 90.48 (Water Pollution Control), WAC 173-218 (Underground Injection Control Program), and WAC 173-200 (Water Quality Standards for Ground Waters).

Regulated Activities – Injection wells are artificial or improved holes in the ground, deeper than they are wide at the ground surface; or improved sinkholes or sub-surface fluid distribution systems. They are used to release or dispose of fluids underground; for example to manage stormwater, dispose sanitary sewage, or clean up contaminated sites. Examples include sumps, drywells, drainfields and infiltration trenches that contain perforated pipe. A fluid is any flowing matter, regardless of whether it is in a semisolid, liquid, sludge, or gaseous state. The fluid may be injected for a beneficial use (e.g. ground water recharge or at an aquifer remediation site) or potentially harmful (e.g. misuse of a septic system by accepting fluids other than sanitary waste).

The UIC program maintains a non-endangerment performance standard, which prohibits injection that allows the movement of fluids containing any contaminant into underground sources of drinking water. In Washington, all ground water is considered a potential source of drinking water.

Ecology maintains an inventory of UIC wells, which must be registered in Washington, whether or not they are in use. WSDOT must register UIC wells prior to construction and must keep Ecology informed of the status of the well, e.g., active, closed, change in ownership, or change in use. Registration is especially important if the well is in a locally designated Wellhead Protection Area, Critical Aquifer Recharge Area, or other sensitive water quality protection area.

The statutes identify five classes of UIC wells. In Washington Classes I to IV are prohibited. All other wells are considered Class V wells.

Exempt Activities – Infiltration ponds and infiltration trenches that do not contain perforated pipe are not registered under the UIC program.

Geographic Extent – State of Washington.

Types of Permits – Not applicable.

Prerequisite Permits and Approvals – None.

Related Permits and Approvals – On-site sewage disposal systems require a State Waste Discharge Permit from Ecology if the discharge is over 14,500 gallons per day (gpd) (see [Section 540.12](#)), from Washington State Department of Health (DOH) if between 3,500 and 14,500 gpd (see [Section 540.21](#)), and from the local health department if under 3,500 gpd (see [Section 550.10](#)).

Interagency Agreements – None applicable.

Processing Time – Not applicable.

Fees – None.

(2) How to Apply

To register a UIC well, change its status, or report closure, obtain the needed forms from Ecology at:

 http://www.ecy.wa.gov/programs/wq/grndwtr/uic/registration/reg_info.html

JARPA – Not applicable.

Submitting the Application – Mail completed registration form to:

UIC Coordinator
Water Quality Program
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

(3) For More Information

For information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance, please refer to **Chapter 431**, Water Quality/Surface Water; and **Chapter 433**, Groundwater.

For information on Washington's UIC program, including an overview, current and draft rules, registration forms, and a fact sheet for Class V wells, see Ecology's web site:

 <http://www.ecy.wa.gov>

Click on Water Quality, then Ground Water.

Or by direct link:

 <http://www.ecy.wa.gov/programs/wq/grndwtr/uic/index.html>

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see **Appendix G** for list of contacts). For assistance from Ecology, contact Mary Shaleen Hansen, 360-407-6143, maha461@ecy.wa.gov.

(5) Information Last Updated

May 5, 2005.

540.15 Hydraulic Project Approval (General and Individual) – Construction in State Waters

(1) Overview

The Hydraulic Project Approval (HPA) is intended to protect fish life, and is required for any activity that uses, diverts, obstructs, or changes the natural flow or bed of any salt or fresh water. Approval from the Washington State Department of Fish and Wildlife (WDFW) is required before beginning the activity.

Projects designed to enhance fish habitat may qualify for streamlined approval processing and exemption from SEPA requirements and local government permits and fees. Habitat enhancement constructed as mitigation for environmental impacts of a project does not qualify. Only projects specifically for fish habitat enhancement may be covered by this streamlined process.

Ecology has prepared a schematic diagram illustrating the application and review process for the HPA with a link to a schematic for the Fish Habitat Enhancement Project exemption. The schematics are in **Exhibit 540-6** and **Exhibit 540-7** and online at:

HPA:

 http://www.ecy.wa.gov/programs/sea/pac/ppds_info/Hydraulic_Project_Approval_Permit.pdf

Fish Habitat exemption:

 http://www.ecy.wa.gov/programs/sea/pac/ppds_info/Links/fish_enhancement_exemption.pdf

Agency Issuing Permit – Washington State Department of Fish and Wildlife (WDFW).

Statutory Authority – Chapter 77.55 RCW; Chapter 220-110 WAC.

Regulated Activities – An HPA is required for any work that uses, obstructs, diverts or changes the natural bed or flow of salt or fresh waters of the state. HPA conditions include fish habitat and fish life protection requirements.

Exempt Activities – Activities not requiring an HPA (WAC 220-110-035) include:

- Installing, by hand or hand-held tools, small scientific markers, boundary markers, or property line markers.
- Driving a vehicle or equipment on or across an established ford.
- Conducting a remedial action under a consent decree, order, or agreed order, pursuant to RCW 70.105D (exempt from procedural requirements but not the substantive provisions of the Hydraulic Code).

Geographic Extent – State of Washington

Types of Permits – HPAs include emergency, expedited and standard types. For permit streamlining purposes, a standard HPA may be issued for one specific project location (Individual HPA), two or more specific project locations (Consolidated HPA) or for any number of unspecified locations (General HPA). General HPAs are only issued for minor, routine, maintenance activities that have a low risk of impact to fish life. Standard HPAs are issued for up to five years. Most WSDOT projects require an Individual HPA unless it is covered by one of the ten General HPAs. WDFW has issued for common WSDOT activities including:

- Bridge and ferry terminal maintenance and repair, including bridge and ferry terminal cleaning and painting, deck repair/replacement, and other structural repair.
- Removing or modifying recently constructed beaver dams.
- Removing or relocating debris from bridges.
- Fresh and marine water sediment test boring and geotechnical surveying.
- Maintaining channelized streams and removing debris and sediment.
- Maintaining existing fishway facilities.
- Maintaining culverts.
- Repairing and maintaining culverts in non-fish bearing waters.
- Replacing up to 40 piles in marine ferry terminals.

In addition, WDFW has two Pamphlet HPAs, or permits-by-rule, which do not require a written application; the only requirement is to follow the conditions listed in the pamphlet. The pamphlet HPA entitled *Aquatic Plants and Fish* applies to certain aquatic plant control and removal projects. The other pamphlet HPA, *Gold and Fish*, applies to mineral prospecting.

In immediate or imminent threat situations, WDFW may issue an “emergency” or “expedited” HPA, respectively (see RCW 77.55.100 (5) and (3)). The emergency HPA is issued when there is an immediate threat to life, the public, property or risk of environmental degradation. It is issued for the duration of the emergency. “Emergency” work that would not start within 15 days of the permit request may best be addressed as an expedited HPA.

The expedited HPA is issued for imminent threats by weather, water flow, or other natural conditions that are likely to occur within 60 days of a request for a permit application, or may be issued if normal permit processing would result in a significant hardship for the applicant or unacceptable damage to the environment. In these situations, the WDFW agency review is expedited and permits are issued for up to 60 days.

Prerequisite Permits and Approvals – State Environmental Policy Act (SEPA) compliance must be complete before WDFW can review the application and issue the HPA. SEPA compliance is not required for an expedited or an emergency HPA, nor for projects qualifying as fish habitat enhancement projects. SEPA compliance has been completed for the general HPAs.

Related Permits and Approvals – Projects resulting in discharge of wastewater may also require a Section 404 permit (see [Section 520.02](#)); work in navigable water may require a Section 10 permit (see [Section 520.04](#)). Bridge projects may require a Section 9 permit (see [Section 520.03](#)). For these projects, the public notice circulated by the Corps or USCG serves as the HPA application.

Projects resulting in discharge of wastewater may also require Section 401 water quality certification and a NPDES/State Waste Discharge Permit from Ecology (see [Section 540.02](#) and [Section 540.04](#) through [Section 540.08](#)). Projects proposing to remove 5,000 board feet of merchantable timber from newly acquired right-of-way, or on forested lands managed by Washington State Department of Natural Resources (WDNR) may require a Forest Practice Permit (see [Section 540.18](#)).

For over-water maintenance activities covered by WDFW’s General HPA for bridge and ferry terminal cleaning, painting and general maintenance and repair, conditions of Ecology’s NPDES Programmatic Permit for low-pressure maintenance washing and high pressure paint-preparation washing also apply (see [Section 540.08](#)).

Local permits and approvals may also be required.

Interagency Agreements – A Memorandum of Agreement (MOA) between WSDOT and WDFW on construction in state waters (June 2002) covers coordination of project review for capital and maintenance projects, procedures for scheduled, unscheduled and emergency maintenance, HPA application procedures, oversight and monitoring responsibilities, and specific technical

guidance relevant to WSDOT projects. This MOA is currently under revision and is expected to be renewed by December 2005.

The MOA is online at WSDOT ESO's compliance web site or by direct link:

 http://www.wsdot.wa.gov/environment/Programmatics/docs/MOA_Final.pdf

Processing Time – Most HPAs are processed within 45 calendar days after the complete application is received and SEPA compliance is complete. Expedited HPAs are processed within 15 days; and emergency HPAs are processed immediately.

For fish habitat enhancement projects, WDFW must approve or deny the HPA, or make a determination that the proposed work does not qualify for the exemption process within 45 days. Local government has 15 days to identify concerns with public health and safety.

Fees – None.

(2) How to Apply

The *General HPAs* listed above have already been issued to WSDOT. Therefore, no additional application is necessary for the specific activities covered by these permits. However, agency notification is required prior to beginning work, and reports of activities must be submitted to WSDOT ESO for annual reporting to WDFW and Ecology. See the provisions of each General HPA for the specific notification requirements. As General HPAs are not modified on a site-by-site basis, projects or work that could not be conducted without a modification of the General HPA would require an Individual HPA.

Application for an *Individual HPA* should be submitted to WDFW when final project plans are near completion. However, prior to application submittal, early coordination with WDFW in the planning process and early design phases is strongly encouraged. Application can be made through any one of the following documents (WAC 220-110-030):

- Hydraulic Project Application submitted to WDFW using JARPA (see below).
- Section 404 or Section 10 public notice circulated by the Corps (see [Section 520.02](#) or [Section 520.03](#)).
- Forest Practices Application submitted to (WDNR) if the hydraulic project is part of a forest practice as defined in WAC 222-16-010 (see [Section 540.18](#)).

To determine whether a fish habitat enhancement project qualifies for streamlined processing, contact WDFW or see the eligibility criteria, online at:

 <http://www.ecy.wa.gov/programs/sea/pac/enhan.htm>

JARPA – Application for an Individual or General HPA, including an expedited HPA, is made through the Joint Aquatic Resources Permit Application (JARPA), a system designed to allow applicants in Washington to batch permit applications and encourage concurrent permit review periods (see [Section 510.03](#)). The JARPA can be downloaded from:

 <http://www.ecy.wa.gov/programs/sea/pac/jarpa.html>

Washington's Office of Regulatory Assistance has developed an electronic tool for using the JARPA. The tool can be accessed at:

 <http://www.one-stop-jarpa.org/>

Pre-application Conference – The MOA between WDFW and WSDOT referenced above (Interagency Agreements) requires annual meetings that function as pre-application meetings. WSDOT regional staff may also contact the local WDFW Area Habitat Biologist to request pre-application review of proposed projects.

Special Information Requirements – The JARPA package must include general plans for the overall project, complete plans and specifications for the proposed construction or work within the waterway, and for the proper protection of fish life (see WAC 220-110-030 and Appendix A of the MOA.) Applications for streamlined processing of fish habitat enhancement projects must additionally include the application form for these projects that is attached to the JARPA. This form is online at:

 <http://www.ecy.wa.gov/programs/sea/pac/docs/fishenhancement.doc>

Public Notice – Other than the public review process mandated by SEPA, there is no public review process specified. For most (90 percent) of the projects, the SEPA Determination of Non-significance is the only public notice given. On larger projects that involve a NEPA document or SEPA EIS, public meetings are required during the documentation process.

Submitting the Application – Applications are submitted to the WDFW biologist in the regional office serving the project area. Contact information is online at:

 <http://wdfw.wa.gov/reg/regions.htm>

Agency and Public Review – WDFW grants or denies approval of standard HPAs within 45 calendar days of receiving a complete application and notice of compliance with any applicable SEPA requirements. The 45-day period may be extended, if the permit is part of a multi-agency permit streamlining effort and all participating permitting agencies and the permit applicant agree to an extended timeline longer than 45 calendar days. The 45-day period can be suspended if, after 10 working days of receipt of the application, the applicant cannot be reached, the project site is inaccessible, or the applicant requests a delay. Written requests for time extensions, renewals, or alterations to an existing HPA should be submitted.

HPA approval is usually given by the WDFW Area Habitat Biologist. However, most General HPAs are issued from Olympia. HPAs are issued for up to five years, after which the applicant must re-apply. The permit holder must demonstrate substantial construction progress on the portion of the project related to the HPA within two years. Permits are denied when the project results in direct or indirect harm to fish life, unless adequate mitigation can be assured by conditioning the HPA or modifying the proposal.

Emergency HPAs are issued upon request. Whenever possible, an on-site technical visit is conducted by WDFW prior to issuing the HPA. No application is required, but WDFW usually requests a simple faxed application. If verbal approval is requested, WDFW must convey all conditions given verbally into a written follow-up permit within 30 days of the verbal approval. While verbal emergency approval is sometimes necessary, WDFW typically issues WSDOT written emergency approval the same day as the request. Emergency HPAs are reviewed immediately and are valid for the duration of the emergency.

Expedited HPAs require a written application. They are reviewed within 15 days and are valid for up to 60 days.

For fish habitat enhancement projects, the JARPA and supplementary application is submitted to WDFW and local government planning and permitting departments. Within 15 calendar days, WDFW determines whether the project qualifies for streamlining or not. If so, it is exempt from SEPA and local permits and fees (RCW 77.55.290).

Appeal Process – Informal and formal appeal processes are available to the applicant or other aggrieved parties, but must be filed within 30 days of issuance, conditioning or denial of the HPA.

Post-permitting Requirements – The MOA between WSDOT and WDFW specifies WSDOT's responsibilities for oversight by training project inspectors how to monitor projects for compliance with HPA provisions. If after the HPA is issued, project designs change or circumstances arise that require modifications to design or construction methods, WSDOT notifies the WDFW Area Habitat Biologist to discuss changes to design and potential modifications to the HPA.

(3) For More Information

For information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance, please refer to [Chapter 431](#), Water Quality/Surface Water; [Chapter 432](#), Floodplain; [Chapter 436](#), Wildlife, Fish and Habitat; and [Chapter 437](#), Wetlands. For information on water quality procedures during construction see [Section 620.04](#).

For detailed guidance on general HPAs, WSDOT maintains a web site with current HPAs, unified conditions, conditions for each HPA, and interagency agreements.

 <http://www.wsdot.wa.gov/environment/Programmatics/default.htm>

(4) Permit Assistance

Contact the WSDOT regional office environmental staff for information or guidance on use of General HPAs (see [Appendix G](#) for list of contacts). Contact Gregor Myhr, Permit Program Manager, at 360-705-7487, or email MyhrG@wsdot.wa.gov; or Joel Gjuka, Statewide Permits, at 360-705-7490 or email GjukaJo@wsdot.wa.gov. Technical assistance is also available from WDFW Area Habitat Biologists, or Regulatory Services Section staff.

- (5) **Information Last Updated**
May 11, 2005.

540.16 Aquatic Lands Use Authorization

(1) Overview

Under what is commonly referred to as the Aquatic Lands Act, anyone wishing to use state-owned aquatic lands, including owners of adjacent lands, must get authorization from the Washington State Department of Natural Resources (WDNR). Aquatic lands include the beds of Puget Sound, navigable rivers, lakes, and other waters; and much of the tidelands (land covered and exposed by the tide) and shorelands of lakes and other fresh waters.

WDNR's primary considerations in authorizing use of aquatic lands are: fostering water-dependent uses, ensuring environmental protection, encouraging direct public use and access, and promoting renewable resources. Non-water dependent uses such as highways must be compatible with existing or planned water-dependent uses. Use authorizations may be made for up to 55 years, as determined by statutory criteria.

See [Section 540.17](#) for related information on easements on state-owned land in upland areas.

Agency Issuing Authorization – Washington State Department of Natural Resources.

Statutory Authority – RCW 79.90-79.100 and WAC 332-30-122 (aquatic land use authorization); RCW 79.36 (easements over public lands); RCW 47.12.023, RCW 47.12.026 (acquisition of state lands).

Regulated Activities – Typical WSDOT activities for which authorization is required include dredge disposal, easements for bridges and utility crossings (including outfalls), ferry terminals and docking facilities, and sand and gravel removal. Any activity interfering with the general public use of an area requires authorization. Use authorization agreements may be granted for crossing aquatic lands, and a right-of-entry may be granted for uses that typically require only a temporary use of state-owned aquatic lands and no structures or equipment are installed.

Exempt Activities – The only exempt structures are federal structures serving the needs of navigation (WAC 332-30-122).

Geographic Extent – State of Washington.

Types of Permits – Authorization to use state-owned aquatic lands and/or materials may be in the form of a lease, material purchase, easement, permit, or other instrument.

Prerequisite Permits and Approvals – Compliance with the State Environmental Policy Act (SEPA) is required. For non-exempt projects, the applicant must complete a SEPA checklist, issue a Determination of Non-Significance or a Determination of Significance for which an EIS was prepared and appropriate mitigation measures were incorporated, and include any additional information required by SEPA before WDNR will agree to an easement. A property survey

that meets the specifications for Exhibit A must also have been approved by WDNR.

All necessary federal, state, and local permits must be acquired and copies furnished to WDNR before use can be authorized. When evidence of interest in aquatic land is necessary to apply for a permit, an authorization instrument may be issued but conditioned on receiving the permit.

Related Permits and Approvals – Other approvals that may be needed before the aquatic use authorization is received include: Section 404 permit from the Corps for dredge and fill activities (see [Section 520.02](#)); Section 10 permit from the Corps for work in navigable waters (see [Section 520.03](#)); Section 9 bridge permit from the USCG (see [Section 520.04](#)); Section 401 Water Quality Certification from Ecology (see [Section 540.02](#)); NPDES permit from Ecology (see [Section 540.04](#) to [Section 540.08](#)); Hydraulic Project Approval from WDFW (see [Section 540.15](#)); and a Shoreline permit from local government (see [Section 550.02](#)).

Interagency Agreements – There are no official interagency agreements at this time. WSDOT and WDNR issued a joint memorandum to their staffs on April 4, 2005 to work cooperatively on utility crossings attached to bridges that cross over state-owned aquatic lands. WSDOT and WDNR continue to work cooperatively to develop a standardized easement template for state-owned aquatic lands.

Processing Time – Generally from six months to one year.

Fees – WSDOT may obtain an easement at no charge for highway or toll facilities rights-of-way, or for ferry terminal or docking facilities, including necessary fills on, over, or across the beds of navigable waters under WDNR jurisdiction (RCW 47.12.026).

Under RCW 47.12.026, WSDOT may get free easements for beds of navigable waters and harbor areas. WSDOT uses over tidelands and shorelands must pay just compensation to WDNR and the jurisdiction of those lands are transferred to WSDOT (under RCW 47.12.023). To qualify for free use authorizations within harbor areas, the easements and rights-of-way must be designated as public places by the Harbor Line Commission (See RCW 47.12.026). To qualify for free use authorizations within harbor areas, the easements and rights-of-way must be designated as public places by the Harbor Line Commission (see RCW 47.12.026).

Rents for use of state-owned aquatic lands are determined by statute and regulation (WAC 332-30-123 and WAC 332-30-125).

(2) *How to Apply*

Applicants submit a Short Form Application for Authorization to Use State-Owned Aquatic Lands along with a JARPA. The Short Form, including property survey requirements, is online at:

 http://www.ecy.wa.gov/programs/sea/pac/docs/short-form-application_10_2003.doc

JARPA – The JARPA is a system designed to allow applicants in Washington to batch permit applications and trigger concurrent permit review periods (see [Section 510.03](#), JARPA). The JARPA is online at:

 <http://www.ecy.wa.gov/programs/sea/pac/jarpa.html>

Washington's Office of Regulatory Assistance has developed an electronic tool for using the JARPA. The tool can be accessed at:

 <http://www.one-stop-jarpa.org/>

Pre-application Conference – WDNR schedules pre-application conferences at the request of the applicant.

Special Information Requirements – See supplemental application.

Public Notice – WDNR gives public notice of sites proposed for non-water-dependent uses.

Submitting the Application – Send the completed JARPA and Short Form application to the WDNR district where the project is located (see list of addresses of districts on the application form).

Agency and Public Review – In reviewing authorization requests, WDNR's analysis includes environmental, public use and access, and management considerations. Authorization instruments are written to ensure that structures and activities on aquatic lands are designed, constructed, maintained, and conducted using sound environmental practices. Uses that cause adverse impacts may be authorized only upon compliance with applicable laws and regulations and mitigation of substantial or irreversible impacts. Non-water dependent uses with significant adverse impacts will not be authorized. Underwater pipelines, outfalls and cables are authorized only if there is no practical upland alternative.

Owner(s) of property abutting the land for which the use authorization is requested must be notified of the intention to lease the area. The owners of the abutting upland property have a preference to lease first-class tidelands and shorelands, and second-class shorelands. WDNR may only lease bedlands to the abutting tideland or shoreland owner or lessee, unless the abutting owner consents to such lease. (See RCW 79.94.070, 79.90.280, 79.94.260, and 79.95.040.) When not adverse to the public's ownership, the abutting owner's water access needs may be reasonably accommodated.

Appeal Process – An applicant can make a formal appeal under RCW 79.02.030. The appeal must be received by the county superior court within 30 days of the order or decision. Additionally, proposed rent can be appealed under RCW 79.90.520 and WAC 332-30-128, within 30 days of WDNR's notification of rent being due.

Post-permitting Requirements – WDNR staff monitor the leased site to ensure compliance with lease requirements.

(3) For More Information

For questions about aquatic surveys, please call WDNR at 360-902-1100. WDNR's leasing and rights-of-way web site has links to the application form and other documents including a streamlined process for

records of survey and steps for preparing a record of survey plat. The web site is at:

 http://www.dnr.wa.gov/htdocs/sales_leasing/

Or by direct link:

 http://www.dnr.wa.gov/htdocs/sales_leasing/leasing/rightsofway/index.html

 http://www.dnr.wa.gov/htdocs/aqr/pdfs/distmgr_map.pdf

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see **Appendix G** for list of contacts). Other assistance is available from WSDOT's ESO (contact Gregor Myhr, Permit Program Manager, at 360-705-7487 or myhr@wsdot.wa.gov). For assistance from WDNR, the statewide contact for information on aquatic use authorizations is at the Aquatic Resources Division, PO Box 47027, Olympia, Washington 98504-7027; 360-902-1100 (phone); 360-902-1786 (fax); ARD@wadnr.gov.

(5) Information Last Updated

May 20, 2005.

540.17 Easement over Public Land

(1) Overview

Washington State Department of Natural Resources (WDNR) is authorized by statute to grant rights-of-way and easements over and across state-owned upland and aquatic lands. Any local, state, or federal agency desiring to locate, establish, and construct a road or street over state lands can petition for a right-of-way. WDNR enters into such an agreement only after careful consideration of the long-term impacts to the state property.

The statute also authorizes rights-of-way for railways and utility lines. Railway easements are granted by statute to the extent defined by RCW 79.36.450. Acquisition procedures are defined in RCW 79.36.460.

WSDOT is authorized by statute to acquire state-owned land under WDNR's jurisdiction for highway purposes. If WSDOT and WDNR determine the land should be transferred to WSDOT rather than use it under an easement or right-of-way, the procedures outlined in RCW 47.12.023 apply rather than RCW 79.36.

See **Section 540.16** for related information on obtaining rights-of-way on state owned aquatic lands.

Agency Issuing Authorization – Washington State Department of Natural Resources.

Statutory Authority – Chapter 47.12 RCW, RCW 79.36.440 (public roads); RCW 79.36.450 – 79.36.500 (railways), RCW 79.36.510 – 79.36.530 (utility lines).

Regulated Activities – Use of state-owned upland or aquatic lands. Most WSDOT uses are for construction of highways, bridges and related structures,

and mitigation sites. Contractors are usually responsible for obtaining utility line easements. For upland uses, rights-of-way are also granted for hauling timber, rock and other materials. For aquatic uses, an easement may be granted for crossing aquatic lands, and a right-of-entry may be granted for uses continuing for less than one year (see [Section 540.16](#)).

Exempt Activities – Not applicable.

Geographic Extent – State of Washington.

Types of Permits – Authorization to use state-owned lands may be in the form of a transfer of jurisdiction, an easement, a permit or a right-of-entry.

Prerequisite Permits and Approvals – Compliance with the State Environmental Policy Act (SEPA) is required. For non-exempt projects, the applicant must complete a SEPA checklist, issue a Determination of Non-Significance, and include any additional information required by SEPA before WDNR will agree to an easement. A property survey must also have been approved. Compliance with the federal Endangered Species Act, federal Clean Water Act and state Forest Practices Act is also required. The WDNR has a Habitat Conservation Plan which is equivalent to an alternate plan for complying with the Endangered Species Act. WSDOT compliance with the Endangered Species Act Section 7 consultation requirements does not ensure compliance with WDNR's need to consult under Section 10.

All necessary federal, state, and local permits must be acquired and copies furnished to WDNR before use can be authorized.

Related Permits and Approvals – Other required permits may include a Forest Practices Application from WDNR (see [Section 540.18](#)) and Hydraulic Project Approval from WDFW (see [Section 540.15](#)).

Interagency Agreements – Existing contracts between WDNR and WSDOT dating back to statehood have different language and contract requirements. They need to be reviewed individually prior to any work occurring on the property.

Processing Time – Generally from six months to one year.

Fees – WDNR may charge the appraised value of the land, valuable materials and damages for the transfer of jurisdiction, or easement. A permit is generally based upon valuable materials to be hauled or another measure of use.

(2) How to Apply

Application procedures are being revised as WSDOT projects are transferred from WDNR's rights-of-way program to its land transactions section to improve internal processing of WSDOT transfers of jurisdiction. Meanwhile, the application can be downloaded from:

 http://www.dnr.wa.gov/htdocs/sales_leasing/leasing/rightsofway/application.pdf

JARPA – Not applicable.

Pre-application Conference – Prior to submitting an application for any new construction, consultation with a WDNR region representative is required. A site

visit may also be required. (Consultation is required anytime timber or valuable materials are removed from an easement area, or outside of an easement area or transfer of jurisdiction area. Doing so can prevent environmental, habitat or other types of damage.)

Special Information Requirements – A plat map must accompany the application.

Public Notice – Applications involving new construction must follow SEPA procedures, which include public review. Transfers of jurisdiction may need to go to the Board of Natural Resources for approval, which is a public process.

Submitting the Application – Submit the completed application to the WDNR region serving the county in which the project occurs.

Agency and Public Review – WDNR requires completion of SEPA and other required permits and approvals before granting the right-of-way. Public and agency review occurs as part of these processes. A transfer of jurisdiction (TOJ) transfers any rights not specifically reserved by WDNR. This includes the right to valuable materials, minerals, oil, and gas. WDNR performs an internal record search to ascertain any existing encumbrances that may need to be reserved or accounted for in a TOJ, such as a lease. Review of, clearing of title and negotiations surrounding these prior rights may add time to the process.

Appeal Process – RCW 47.12.023 defines arbitration procedures for acquisition of state lands or interests or rights to state land.

Post-approval Requirements – Requirements are included in easement and permit documents. Transfers of jurisdiction do not require any further contact unless WSDOT is operating outside of the transfer of jurisdiction area. For easements and permits, refer to the language of the document. Transfers of jurisdiction do not require any further contact unless DOT is operating outside of the transfer of jurisdiction area.

(3) For More Information

For information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance, please refer to **Chapter 455**, Public Lands.

For questions about upland surveys, please call WDNR's state land survey unit at 360-902-1182. WDNR's leasing and rights of web site has links to the application form and other documents including a streamlined process for records of survey and steps for preparing a record of survey plat. Go to the WDNR home page:

 <http://www.dnr.wa.gov/>

Click on Site Map, then Business with DNR, then Leasing and Rights of Way.

Or by direct link:

 http://www.dnr.wa.gov/htdocs/sales_leasing/leasing/rightsofway/index.html

(4) **Permit Assistance**

Before beginning work on an easement or permit, contact the WSDOT regional office right-of-way staff for guidance (see **Appendix G** for list of contacts). If additional assistance is needed from WDNR, contact Janet Ballew, 360-902-1685, or email janet.ballew@wadnr.gov. Regional offices are listed online at:

 <http://www.dnr.wa.gov/base/regions.html>

(5) **Information Last Updated**

May 13, 2005.

540.18 Forest Practices Permit

(1) **Overview**

Under the Forest Practices Act, the Washington State Department of Natural Resources (WDNR) must approve certain activities related to growing, harvesting or processing timber on all local government, state, and privately owned forest lands. WDNR's mission is to protect public resources while maintaining a viable timber industry. The primary goal of the forest practices rules is to achieve protection of water quality, fish and wildlife habitat, and capital improvements while ensuring that harvested areas are reforested.

Agency Issuing Permit – Washington State Department of Natural Resources. The Legislature has authorized the agency to transfer to counties and cities the authority to process applications for Class IV General conversion forest practices (see below); currently only King, Clark, Spokane, and Thurston counties and the city of Port Townsend have accepted that authority.

Statutory Authority – RCW 76.09.

Regulated Activities – WSDOT activities that may trigger a forest practices permit include the clearing of new right-of-way. A Class IV General Forest Practices Application or Notification (FPA/N) is required to remove trees located on forest land, as defined in RCW 79.09.020, where the new right-of-way is “undeveloped,” and the stand of trees is considered merchantable. Merchantable timber is defined as a stand of trees that will yield logs and/or fiber that is both: (1) suitable in size and quality for the production of lumber, plywood, pulp, or other forest products; and (2) of sufficient value to at least cover all the cost of harvest and transportation to available markets.

It is advisable to consult the regional WDNR representative regarding the need to obtain a FPA/N. A Class II Notification or a Class III Application is required to remove trees located on forest land outside the right-of-way.

Exempt Activities – Submission of a FPA/N is not required for:

- Clearing or maintaining a right-of-way that is “developed” with a road, facility, or WSDOT-owned structure.
- Removing “danger trees” outside the right-of-way if WSDOT is cutting and/or removing less than 5,000 board feet of live, dead, or downed timber, per land owner, per year for “personal use,” meaning it will not be sold.

- Emergency forest practices necessitated by and commenced during or immediately after fire, flood, windstorm, earthquake, structural failure, or other catastrophic event (WAC 222-20-070). When emergency work is required on forestland, the applicant must notify WDNR within 48 hours of the commencement of necessary work. The work needs to be done in accordance with the appropriate forest practice rules and the operator should take care to minimize impacts to public resources.

Geographic Extent – Local government, state and private forest lands. WDNR does not have jurisdiction on federal lands, for example within National Parks or National Forests.

Types of Permits – The main type of permit applicable to WSDOT activities is the Class IV General FPA/N permit. A Class II or Class III FPA may be needed for (1) removing more than 5,000 board feet of danger trees located outside the right-of-way, or (2) emergency forest practices located outside the right-of-way.

Prerequisite Permits and Approvals – Compliance with the State Environmental Policy Act (SEPA) is required for Class IV General applications.

Compliance with the Shoreline Management Act is required. A Shoreline Substantial Development permit from the local jurisdiction must be obtained prior to conducting forest practices that are "substantial developments" within the "shoreline" area as defined by the Shoreline Management Act (see [Section 550.02](#)).

A Hydraulic Project Approval from the WDFW is needed for work within the mean higher high water line in salt waters or within the ordinary high water line in fresh water (see [Section 540.15](#)).

Related Permits and Approvals – The Washington State Department of Ecology maintains a list of state, regional and local regulatory programs that apply to forest practice operations. See Ecology's Permit Assistance Handbook. Forest practices are also subject to the requirements of the federal Endangered Species Act and Clean Water Act. WDNR is seeking assurances from the National Marine Fisheries Service and U.S. Fish and Wildlife Service that all forest practices activities that are in compliance with the state forest practices rules and administrative program will satisfy ESA requirements, particularly the prohibition on "take" of any threatened or endangered aquatic and riparian species. WDNR is also working with the U.S. Environmental Protection Agency and Washington State Department of Ecology to ensure that the forest practices program will meet the goals and standards of the federal Clean Water Act.

Forest practices impacting archaeological resources or historic properties may require a federal and/or state Archaeological Resource Protection permit (see [Section 520.05](#) and [Section 540.22](#)) and/or concurrency with Section 106 of the National Historic Preservation Act (see [Section 520.10](#)).

Interagency Agreements – An Interagency Agreement between WDNR and WSDOT to modify the FPA/N instructions for WSDOT activities is currently being negotiated by the ESO Compliance Program staff. This agreement is expected to be completed Summer/Fall 2005 (contact Joel Gjuka, ESO Permit Program (360-705-7489)).

Processing Time – Five to thirty days after WDNR has received and accepted a complete application, and all prerequisite permits and approvals have been obtained.

Fees – \$500 for Class IV General “conversion” of forested land to a permanent non-forest use and \$50 for Class II and III “non-conversion” applications.

(2) How to Apply

To obtain approval for a regulated forest practice, submit a FPA/N. The application requires information on the location and extent of forest road construction and maintenance activities, borrow and disposal areas for forest roads, methods and equipment, size of needed rights-of-way, reforestation plans, stream crossings and drainage plans including existing and extended culvert sizes and composition on forest roads, wildlife habitat to be removed, riparian protection, and location of water bodies and wetlands. Activity maps are also required.

Forest roads are roads on forestland that are used for forest practices. In this case, to haul the timber being cut, the FPA/N is not intended for highway information – such as the sub-grade and culverts.

An FPA/N procedure specific to WSDOT is being developed. Meanwhile, WDNR offers separate instructions and FPA/N forms for both Western Washington and Eastern Washington. Application forms and instructions can be viewed and downloaded from the WDNR web site:

 <http://www.dnr.wa.gov/forestpractices/>

Click on Forest Practices Forms and Maps, then FPA/N Form, FPA/N Form and Instructions, FPA/N Activity Map Standards, or Mapping Website

If the SEPA process has been completed, submit a copy of the SEPA Determination of Non-Significance (DNS) and applicable approved local government permits with the FPA/N.

JARPA – Not applicable.

Pre-application Conference – Applicants may schedule an early review of a proposed application with WDNR prior to official filing, or submit an application with a delayed effective date. Early review or submission allows WDNR to review multiple applications and bring other forest practices concerns to the attention of the applicant so they can be addressed prior to official filing and processing of an application

Special Information Requirements – Applicants may be required to complete and submit other forms or information. For example, additional information and conditions may apply if the work occurs on unstable landforms. Water Type Modification Form is used to propose a water type change on forestland.

Public Notice – No specific FPA/N public notice is required. The SEPA DNS has already incorporated a public notice process, and if the project activity requires NPDES coverage, additional public notice has also been published.

Submitting the Application – Applications should be submitted to the WDNR regional office where the proposed harvest is located. Contact information is online at:

 <http://www.dnr.wa.gov/base/regions.html>

For projects proposing Class IV-General conversion forest practices located in King, Clark, Spokane or Thurston counties or in the city of Port Townsend, the applicant should contact the appropriate county or city office to determine the application form and requirements necessary to have a complete application.

Agency and Public Review – The application is reviewed by WDNR forest practices region staff, local government, and Timber, Fish and Wildlife (TFW) Agreement cooperators. A field site visit and forester's best professional judgment is sometimes needed to determine if a FPA/N is required.

Part of the decision regarding the need for a FPA/N is whether or not the property is incompatible with growing timber, which is partly determined by current and planned land use. WDNR may refer to local governments to help make that determination.

Appeal Process – Contact the WDNR regional office or responsible county agency (King, Clark, Spokane, or Thurston counties) for information regarding appeal of disapproved applications, or conditions placed on an approved application.

Post-permitting Requirements –The FPA does not track where the timber is sold and processed, only that the harvest complied with the terms and conditions of the approved application. Washington State Department of Revenue tracks the logs to validate that the logs were not exported.

(3) **For More Information**

Please see **Chapter 455**, Public Lands, for information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance.

For information and links related to forest practices, including rules, the Forest Practices Manual, forms and instructions, and spatial data sets and maps in ArcInfo format, see WDNR's forest practices web site:

 <http://www.dnr.wa.gov/forestpractices/>

The WDNR Forest Practices web site cited above also has a link to the Forest Practices Application Review System, which streamlines the processing of FPA/Ns and allows applicants to track the status of applications and view examples of previously submitted applications. It provides all the tools required to complete the FPA/N. The direct link is:

 http://www3.wadnr.gov/dnrapp3/FPASearch_html/FPARShome.jsp

Answers to frequently asked questions related to WSDOT projects are online via WSDOT's ESO web site:

 <http://www.wsdot.wa.gov/environment/Programmatics/docs/ForestPracticePermitsFAQs.PDF>

(4) **Permit Assistance**

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see **Appendix G** for list of contacts). Other

assistance is available from WSDOT's Environmental Services Office Permit Program, Joel Gjuka, 360-705-7490, GjukaJo@wsdot.wa.gov. For assistance from WDNR, the statewide contact is Kathy Murray at 360-902-1414. Other contact information:

Dept of Natural Resources
Forest Practices Division
1111 Washington Street
PO Box 47012
Olympia, WA
98504-7012

Phone: 360-902-1400
Fax: 360-902-1428

- (5) **Information Last Updated**
May 19, 2005.

540.19 Surface Mining Reclamation Permit

(1) **Overview**

Under the Washington Surface Mine Act, the Washington State Department of Natural Resources (WDNR) is responsible for regulating the rehabilitation of areas disturbed by surface or underground mining. The basic objective of reclamation at mines is to reestablish the vegetative cover, soil stability, and acceptable water quality conditions at the site. Mines are also reclaimed for secondary beneficial uses: fish and wildlife habitat, grazing, forestry, wetlands, and commercial and industrial uses. Other local, state, and federal agencies regulate different facets of mining operations other than reclamation.

Agency Issuing Permit – Washington State Department of Natural Resources.

Statutory Authority – RCW 78.44; WAC 332-18.

Regulated Activities – A reclamation permit is required for each surface mine site that: (1) results in more than three acres of disturbed ground (including high walls, pit floors, stockpiled areas, side-cast areas, and processing plant sites); or (2) has an internal pit site wall that is both higher than 30 feet and steeper than 45 degrees, unless there is a pre-existing natural hazard in the area.

Exempt Activities – Not applicable.

Geographic Extent – State of Washington.

Types of Permits – Individual.

Prerequisite Permits and Approvals – Before the reclamation permit can be issued, the local jurisdiction must formally approve mine siting and/or the subsequent use of the mine site (RCW 78.44.091). This approval process generally makes the local jurisdiction the lead agency under State Environmental Policy Act (SEPA) rules. The applicant must provide documentation of SEPA review sufficient for WDNR to determine that environmental impacts can be adequately mitigated.

The following other approvals must have been received if required: local zoning and land use approvals (see [Section 550](#)); shoreline permit (see [Section 550.02](#)), Hydraulic Project Approval from the WDFW (see [Section 540.15](#)); and all solid waste permits (WAC 332-18-01003).

A performance security for reclamation is also required before the reclamation permit can be issued and before mining can begin.

Related Permits and Approvals – Zoning and mining operations such as adequate fencing of the site perimeter, excavation, blasting, operational water and erosion control, noise and dust emission control, public safety, mineral processing, and batching are regulated by various local and state jurisdictions other than WDNR.

Interagency Agreements – None applicable.

Processing Time – Within 60 days after receipt of a permit application, WDNR must advise applicants of any information necessary to successfully complete the application. However, it may take from six months to several years before completion of the environmental documents and approval of the permits that are required prior to issuing a reclamation permit. When all other requirements have been met, WDNR must issue the reclamation permit within 30 days.

Fees – \$1,000 application fee and \$1,000 per year on the anniversary date of the reclamation permit.

(2) How to Apply

Application forms may be accessed at:

 <http://www.dnr.wa.gov/geology/smforms.htm>

Instructions for filling in the application form are available at:

 <http://www.dnr.wa.gov/geology/pdf/sm8ainst.pdf>

JARPA – Not applicable.

Pre-application Conference – Contact the WDNR Division of Geology and Earth Resources office in Olympia to arrange a meeting to discuss the reclamation proposal before proceeding with the application. This will facilitate the application process. The Division's mine reclamation office number is 360-902-1444.

Special Information Requirements – The proposed mining site must be compatible with local land use specifications and requirements. Haul road agreements must be secured with the local jurisdictions to haul the processed materials from the site. There are also additional information requirements for mining in flood planes, in hydrologically sensitive areas and in areas with potentially unstable or steep slopes.

Public Notice – Done as part of SEPA review.

Submitting the Application – Mail the completed application to:

Department of Natural Resources
Geology and Earth Resources Division
1111 Washington Street SE

PO Box 47007
Olympia, WA 98504-7007
Telephone: 360-902-1450
Fax: 360-902-1785

Agency and Public Review – Public and agency review of the reclamation permit occurs through the SEPA process. The local jurisdiction is likely to be the lead agency for SEPA, since WDNR requires local approval of the mine siting and subsequent use prior to issuing the reclamation permit.

Appeal Process – If WDNR fails to approve a complete reclamation plan within 120 days, the applicant may appeal under the provisions of RCW 78.44 and RCW 34.05.

Post-permitting Requirements – To ensure high quality reclamation after mining, WDNR requires preparation of a reclamation plan that specifies how the applicant will achieve the following reclamation goals:

- Reclaiming progressively or in segments, where possible, as mining is completed.
- Preserving topsoil.
- Restoring slopes so high walls are stable and are rounded rather than linear so features appear natural rather than artificial.
- Designing final topography to blend with adjacent topography.
- Revegetating with multi-species ground cover and trees.
- Controlling water and erosion pertaining to reclamation.

When signed by the applicant and approved by WDNR, the application and associated maps, cross sections, and other attachments will be the approved reclamation plan for this permit and must be implemented. Variation from the approved reclamation plan may require approval of a new plan.

(3) **For More Information**

Please see **Chapter 420**, Earth (Geology and Soils), and **Chapter 451**, Land Use, for information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance.

For links to information on surface mining reclamation, forms, publications, and geologic maps, see WDNR's Division of Geology and Earth Resources web site:

 <http://www.dnr.wa.gov/geology/>

A WDNR publication, *Best Management Practices for Reclaiming Surface Mines in Washington and Oregon* (OFR 96-2) is at:

 <http://www.dnr.wa.gov/geology/pdf/bmp.pdf>

Other resources available from WDNR include a regulatory guide specific to surface mining, *Mining Regulations in Washington* (OFR 00-3), which is available online at:

 <http://www.dnr.wa.gov/geology/pdf/ofr00-3.pdf>

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see [Appendix G](#) for list of contacts).

For assistance from WDNR, contact the Surface Mine Reclamation Program at 360-902-1444, surfacemining@wadnr.gov.

WDNR's permit checklist is online at:

 http://www.dnr.wa.gov/geology/pdf/sm_checklist.pdf

(5) Information Last Updated

May 9, 2005.

540.20 Survey Monument Removal Permit

(1) Overview

The Washington State Department of Natural Resources (WDNR) is authorized by statute to maintain a system of permanent boundary monuments as reference points for the description of common land boundaries. To accommodate construction, mining and other development, the agency issues permits to allow the temporary removal or destruction of any such monument. Before removal or destruction, the monument must be referenced to the state coordinate system by a registered professional engineer or land surveyor. Within a reasonable time after construction is completed, the monument must be replaced or a witness monument set to perpetuate the survey point.

Agency Issuing Permit – Washington State Department of Natural Resources

Statutory Authority – RCW 58.24.040(8); and WAC 332-120.

Regulated Activities – Temporary removal or destruction of a section corner or any other land boundary mark or monument.

Exempt Activities – Not applicable.

Geographic Extent – State of Washington

Types of Permits – Not applicable.

Prerequisite Permits and Approvals – Not applicable.

Related Permits and Approvals – Not applicable.

Interagency Agreements – None applicable.

Processing Time – Applications are processed and the permit mailed back within 24 to 48 hours of receipt.

Fees – None.

(2) How to Apply

The Application for Permit to Remove or Destroy a Survey Monument form can be downloaded from:

 <http://www.dnr.wa.gov/htdocs/plso/permit.pdf>

One application may be submitted for multiple monuments to be removed or destroyed as part of a single project. However, separate attachments are required detailing information for each monument.

In extraordinary circumstances, the removal may be authorized verbally; WSDOT would need to submit a properly completed application within 15 days.

JARPA – Not applicable.

Pre-application Conference – Not applicable.

Special Information Requirements – The application must be printed on legal-size paper, and stamped by a licensed Civil Engineer (usually the WSDOT Regional Project Engineer) or licensed Surveyor (usually from WSDOT's Regional Right-of-Way Plans staff).

Public Notice – Not applicable.

Submitting the Application – Submit the completed applications to:

Ted Smith
Public Land Survey Office
PO Box 47060
Olympia WA 98504-7060

Agency and Public Review – Upon receipt of a properly completed application, WDNR is required to promptly issue a permit authorizing the removal or destruction of the monument. Applications concerning local or geodetic control points are referred to the appropriate agency, and the applicant is notified when such action is taken.

Appeal Process – Not applicable.

Post-permitting Requirements – After the monument has been replaced or a witness monument set, the Completion Report for Monument Removal or Destruction is completed by the land surveyor or engineer and sent to WDNR. The Completion Report is on the reverse side of the application.

(3) For More Information

More information can be accessed at the public land survey office web site at:

 <http://www.dnr.wa.gov/htdocs/plso/>

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional right-of-way staff for guidance (see **Appendix G** for list of contacts). Other assistance is available from WSDOT's HQ Design Office, Billy Mumma, 360-705-7458, mummab@wsdot.wa.gov. If additional assistance is needed from WDNR, contact Ted Smith at 360-902-1194 or ted.smith@wadnr.gov.

(5) Information Last Updated

April 27, 2005.

540.21 On-Site Sewage Facility Permit

(1) Overview

The Washington State Department of Health (DOH) regulates on-site sewage systems to protect public health by minimizing public exposure to sewage from on-site systems and preventing adverse health effects from discharge from on-site systems to ground and surface waters.

For Large On-Site Sewage System (LOSS) septic tanks and drainfields with design flows between 3,500 and 14,500 gallons per day (gpd), DOH must review and approve the pre-design document, engineering report, plans and specifications, construction report and operations and maintenance manual. Construction approval is valid for two years, but can be extended an additional year if a written request is received. Additional conditions may be deemed necessary for an extension.

DOH has prepared a schematic diagram illustrating the LOSS application and review process. The schematic is in [Exhibit 540-8](#) and online at:

 <http://www.doh.wa.gov/ehp/ts/WW/Loss/FLOWCHART.pdf>

Agency Issuing Permit – Washington State Department of Health.

Statutory Authority – RCW 43.20; WAC 246-272B.

Regulated Activities – Disposal of sanitary sewage through septic tanks and drainfields with a design flow, at any common point, between 3,500 and 14,500 gpd except systems with mechanical or lagoon pre-treatment, which are permitted by the Washington State Department of Ecology (Ecology).

Exempt Activities – Not applicable.

Geographic Extent – State of Washington (DOH currently delegates LOSS approval to the local health jurisdiction in Clallam, Kitsap, San Juan and Thurston Counties.

Types of Permits – DOH issues a construction approval after reviewing the plans and specifications and an Operating Permit after construction is certified by the design engineer.

Prerequisite Permits and Approvals – Not applicable.

Related Permits and Approvals – Contact the local health department for any additional local requirements. Onsite discharge of domestic sewage with mechanical or lagoon pretreatment over 3500 GPD or any discharge over 14,500 gpd is regulated by State Waste Discharge Permit from Ecology (see [Section 540.12](#)); discharge under 3,500 gpd is regulated by an onsite sewage permit from the local health department's (see [Section 550.10](#)).

Underground injection activities, including onsite sewage disposal, are regulated through Ecology's Underground Injection Control program (see [Section 540.14](#)). If a project will also result in discharge of stormwater or other wastewater to surface water, the State Waste Discharge Permit is combined with the appropriate National Pollution Discharge Elimination System (NPDES) permit (see [Section 540.04](#) through [Section 540.08](#)).

Interagency Agreements – Not applicable.

Processing Time – Review and comment on the pre-design document usually takes between four and six weeks, depending on satisfaction of requirements. The Operating Permit is issued at the end of the construction period.

Fees – \$400 minimum fee for eight hours + \$50 per hour for each additional hour; \$100 per site visit (two site visits required). Fees are subject to change in 2006.

(2) How to Apply

To apply for an individual permit, complete and submit to Dept. of Health LOSS Program the Pre-Design Form, online at:

 <http://www.doh.wa.gov/ehp/ts/WW/Loss/PRE-DESIGN.pdf>

JARPA – Not applicable.

Pre-application Conference – DOH recommends a pre-application conference between Program staff and project engineer and/or proponent.

Special Information Requirements – In some cases DOH may require a formal hydrogeology report.

Public Notice – None.

Submitting the Application – The DOH office in Spokane reviews and approves LOSS project applications statewide. Complete and submit the pre-design document form by mail or fax to:

Washington Department of Health
ATTN: Richard Benson
Department of Health
Large On-Site Program
1500 West 4th Avenue, Suite 403
Spokane, WA 99204-1656

Fax to 509-456-3127

Agency and Public Review – Upon receipt of the Pre Design Document, if DOH concurs that the project appears conceptually feasible, a pre-site (soils) inspection is scheduled. DOH must concur with site/soil suitability and loading rate.

If DOH concurs the proposed drainfield site is suitable, WSDOT then develops and submits an engineering report, plans and specifications. If these are approved by DOH, WSDOT can proceed with bids and construction. After construction, DOH makes a final inspection and within 60 days WSDOT submits a construction report, O&M manual and as-builts. DOH issues an operating permit and reviews and approves the manual.

DOH requires an annual Operations and Maintenance report and may require additional documents such as management agreement, hydrogeology reports, treatment performance information, and sampling data.

Appeal Process – Anyone contesting a departmental decision regarding a permit, certificate, approval, or fine may file a written request for an adjudicative proceeding consistent with chapter WAC 246-272B-27001.

Post-permitting Requirements – WSDOT annually renews the LOSS operating permit and submits a report to DOH demonstrating that the LOSS is operated, maintained, and monitored in accordance with WAC 246-272B and the approved operation and maintenance manual. Fees may be required upon adoption of new rules in 2006.

(3) For More Information

For information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance, please refer to **Chapter 431**, Water Quality/Surface Water; and **Chapter 433**, Groundwater.

Complete information on the LOSS program – including LOSS Design Standards, rules (WAC 246-272B), design, management, and operation and maintenance requirements, and other resources and links – is online at the DOH web site:

 <http://www.doh.wa.gov/ehp/ts/WW/Loss/default.htm>

The LOSS site also has the project review checklist used by DOH staff for reviewing engineering submittals. This may be used as a guidance tool to assist in completing the engineering documents. Available online at:

 <http://www.doh.wa.gov/ehp/ts/WW/Loss/LOSS-Review-checklist.doc>

Contact the local health department for possible additional requirements:

 <http://www.doh.wa.gov/LHJMap/LHJMap.htm>

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see **Appendix G** for list of contacts).

For technical assistance and information from DOH, contact the LOSS office in Spokane, 509-456-4431; Richard Benson 509-456-6177, Richard.Benson@doh.wa.gov; or Mamdouh El-Aarag, 509-456-2754, Mamdouh.El-Aarag@doh.wa.gov.

(5) Information Last Updated

May 19, 2005.

540.22 Archaeological Excavation and Removal Permit

(1) Overview

This permit is required under the Washington State Archaeological Sites and Resources Act and Indian Graves and Records Act, which are intended to preserve and protect the state's cultural heritage. A permit from the Office of Archaeology and Historic Preservation (OAHP) must be obtained prior to any excavation that may alter or remove an archaeological resource, native Indian graves, cairns, or painted or glyptic records.

Excavation permits from OAHP apply only to WSDOT projects without a federal nexus; no federal funding, federal permit or approval, use of federal

lands, or participation in a federal program. For cultural resources, WSDOT practice is to treat all projects as if they are federally funded. No excavation permit is required for cultural resource investigations conducted to comply with Section 106 of the National Historic Preservation Act of 1966 (see [Section 456.05](#)).

Agency Issuing Permit – Washington State Department of Community, Trade and Economic Development, and Office of Archaeology and Historic Preservation).

Statutory Authority – RCW 27.44; RCW 27.53; WAC 25-48

Regulated Activities – Digging, excavating, altering, defacing, or removing archaeological objects or sites; historic archaeological resources; or native Indian graves, cairns, or painted or glyptic records.

Permits are specifically required to protect historic archaeological sites on aquatic lands, defined in WAC 25-48-125 as including Lake Washington, Elliott Bay, and the Columbia River bar (see RCW 27.53.030, 060, 080).

Exempt Activities – WSDOT projects with a federal nexus.

Geographic Extent – State of Washington.

Types of Permit – In addition to the standard permit, OAHP may issue a temporary permit immediately where delay could cause damage to an archaeological or historic archaeological resource or site. A temporary permit is valid for 30 days.

Prerequisite Permits and Approvals – A completed State Environmental Policy Act (SEPA) checklist is required before OAHP can review the application.

Related Permits and Approvals – A federal Archaeological Resources Protection permit may also be required for excavation or removal of archaeological resources from federal or tribal lands (see [Section 520.05](#) and [Section 530.03](#)).

Section 106 concurrency may also be required if the project affects properties included in or eligible for inclusion in the National Register of Historic Places (see [Section 456.05](#), Historic, Cultural and Archaeological Resources; and [Section 520.10](#), Section 106 Concurrency). Depending on the location and use of the site, permits or approvals may be required under Section 4(f) of the federal Department of Transportation Act (see [Section 455.05](#)), the Washington State Forest Practices Act (see [Section 540.18](#)), and Shoreline Management Act (see [Section 550.02](#)).

Interagency Agreements – None applicable.

Processing Time – OAHP normally acts upon a permit application within 60 days of receiving a complete permit application, except when the applicant is not the holder of the right of first refusal for salvage of an historic archaeological resource (see WAC 25-48-085).

Fees – The cost of field investigation by OAHP is paid by the applicant.

(2) How to Apply

Contact the OAHp early in the permitting process, to determine if historic or archaeological sites may be affected by the project. The permit application, site inventory form, and related forms are available online at:

 <http://www.oahp.wa.gov/pages/Documents/Archaeology.htm>

JARPA – Not applicable.

Pre-application Conference – Suggested, but not required.

Special Information Requirements – Information required to accompany an application is summarized in WAC 25-48-060. This includes an artifact inventory plan, scientific research design, site restoration plan, site security plan, and public involvement plan.

Public Notice – Issued by OAHp.

Submitting the Application – Submit the completed application to:

Office of Archaeology & Historic Preservation
1063 South Capitol Way, Suite 106
Olympia WA 98501

Phone: 360-586-3065

Fax: 360-586-3067

Agency and Public Review – OAHp gives public notice of a pending permit application. Comments must be received within 30 days. For proposed excavation of a native Indian cairn, grave, or removal of glyptic or painted records, OAHp must notify any tribe which may consider the site to be of historic or cultural significance at least 30 days before issuing a permit.

In addition, the status of any sites or structures listed in or eligible for listing in the State or National Register of Historic Places or Local Landmark designation may need to be determined. Plans for protection or mitigation measures may be a condition of any permit issued.

Applications are reviewed for 30 days by affected tribes, the archaeological community, OAHp, the landowner, the local jurisdiction, any involved state agencies, and any other affected party. After review of the application, OAHp may require additional information to evaluate the proposed. Field investigation or research may be required of the applicant or conducted by the office at the applicant's expense

Appeal Process – Appeals may be made in writing to the Director of the Department of Community, Trade and Economic Development within 21 calendar days of receiving notice of denial.

Post-permitting Requirements – See [Chapter 456](#), Historical, Cultural and Archaeological Resources, [Exhibit 620-3](#), for Construction Procedures for Discovery of Archaeological and Historical Objects.

(3) For More Information

Please see [Chapter 456](#), Historical, Cultural and Archaeological Resources, for information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical

guidance. For information on procedures related to historical and cultural resources during construction see [Section 620.10](#).

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see [Appendix G](#) for list of contacts). Other assistance is available from WSDOT's Environmental Services Office. Call Sandie Turner, 360-570-6637, TurnerS@wsdot.wa.gov; or Craig Holstine, 360-570-6639, HolstineC@wsdot.wa.gov.

For assistance from OAHP, contact Stephenie Kramer, Assistant State Archaeologist, 360-586-3083; or StephenieK@cted.wa.gov; or Greg Griffith, Comprehensive Planning Specialist, 360-586-3073 or gregg@cted.wa.gov.

(5) Information Last Updated

May 5, 2005.

540.23 Air Quality Permits – Land Clearing Burns, Asbestos Demolition, Asphalt Batching or Other Temporary Pollutant Sources

(1) Overview

Under the federal and state Clean Air Acts, Washington State Department of Ecology (Ecology) and/or a regional clean air agency/authority must approve certain activities that may negatively impact air quality. For WSDOT projects, these activities may include burning to clear land for construction, demolition of a structure containing asbestos, or operation of an asphalt batching plant, rock crusher or other temporary sources of air pollution.

Agency Issuing Permit – Washington State Department of Ecology or local clean air agency/authority.

Statutory Authority – 42 USC 7401; RCW 70.94; WAC 173-425 (land clearing); WAC 173-400-040(8) (fugitive dust); WAC 173-400-035 (portable and temporary sources). Asbestos emission requirements are at 40 CFR 61.145

Regulated Activities – Outdoor burning of trees, stumps, shrubbery, or other natural vegetation from land clearing projects, such as clearing new right-of-way. No outdoor burning is allowed in Growth Management Act designated Urban Growth Area (UGA) or within some municipal boundaries. Other WSDOT activities possibly requiring an air quality permit are demolition, renovation, repair or maintenance of structures containing asbestos, and operation of portable asphalt batching plants, rock crushers, Portland concrete cement plants, and other temporary sources of air pollution.

Exempt Activities – New sources producing minimal levels of emissions that do not pose a threat to human health or the environment are exempt from permit requirements.

Geographic Extent – State of Washington.

Types of Permits – The air quality permits applicable to WSDOT are:

- Land Clearing Burn Permit
- Notification of Asbestos Demolition and Renovation Form

- Notice of Construction (NOC) Approval for Portable and Temporary Sources

Prerequisite Permits and Approvals – Varies with each permit.

Related Permits and Approvals – None applicable.

Interagency Agreements – None applicable.

Processing Time – For the land clearing burn permit, forms must be received at least one week prior to the proposed burn. For asbestos demolition, allow ten days. For temporary sources, the Notice of Construction Application must be filed with Ecology or local clean air agency/authority at least 30 days prior to starting operation for portable and temporary sources like asphalt batching plants, rock crushers, or concrete plants.

Fees – Fees vary depending on the responsible agency and size of project.

(2) **How to Apply**

Application procedures for the different air quality permits are described below.

(a) **Land Clearing Burn Permit**

Application requirements and the size of area eligible for the permit vary with each local agency/authority. Burn permits are not issued for areas inside a designated UGA. Other restrictions may apply.

For projects in Benton, Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, Skamania, Snohomish, Spokane, Thurston, Wahkiakum, Whatcom, or Yakima counties, the land clearing burn permit information and application forms can be downloaded from:

 <http://www.ecy.wa.gov/programs/air/local.html>

In Chelan County, contact Rod Lasher, Chelan County Fire Marshal at 509-667-6515. In Okanogan County, contact Dan McCarthy, Okanogan County Pest Inspector at 509-322-1286.

For counties not listed above, the application forms are available at:

 http://www.ecy.wa.gov/programs/air/outdoor_woodsmoke/outdoorburnpermits.htm

(b) **Notification of Asbestos Demolition and Renovation Form**

A Notice of Intent to Remove Asbestos Form is submitted for projects in Benton, Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, Skagit, Skamania, Snohomish, Spokane, Thurston, Wahkiakum, Whatcom, and Yakima counties. Instructions for filling out the application forms and permit assistance are available online at:

 <http://www.ecy.wa.gov/programs/air/local.html>

For counties not listed above, the application is called a Notification of Asbestos Demolition and Renovation Form and is online at:

 <http://www.ecy.wa.gov/biblio/ecy07087.html>

(c) **NOC Approval for Portable and Temporary Sources**

For portable, temporary new pollutant sources like asphalt batching plants or rock crushers, the WSDOT contractor is responsible for obtaining the NOC Approval. These are usually issued by the local clean air agency/authority or the regional Ecology office. The application requirements vary from region to region. To ensure that the contractor's approval is valid for that region, WSDOT should request a copy of the NOC approval, and contact the issuing authority for the region in which the project occurs. NOCs issued in one region are not necessarily valid in another region.

Ecology has prepared a schematic diagram illustrating the NOC Permit application and review process. The schematic is in **Exhibit 540-9** and online at:

 http://www.ecy.wa.gov/programs/sea/pac/ppds_info/air_quality_Notice_of_Construction_Schematic.pdf

JARPA – Not applicable.

Pre-application Conference – See each permit application.

Special Information Requirements – See each permit application.

Public Notice – Contact local clean air agency.

Submitting the Application – For NOCs, submit permit applications to the local clean air agency or the Ecology regional office having jurisdiction over the county in which the project is to be located.

For burning in Chelan, Douglas, Kittitas, Klickitat counties, submit application to:

Okanogan Central Regional Office Department of Ecology
15 W. Yakima Ave., Suite 200
Yakima, WA 98902
509-575-2490

For burning in Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Stevens, Walla Walla, and Whitman counties, submit application to:

Eastern Regional Office Department of Ecology
4601 N. Monroe
Spokane, WA 99205
509-329-3400

Agency and Public Review – Applications are reviewed by the issuing office.

Appeal Process – Permits can be appealed directly to the issuing office.

Post-permitting Requirements – Not applicable.

(3) For More Information

Please see **Chapter 425**, Air Quality, for information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance.

Ecology's online Environmental Permit Handbook has links to the local clean air agencies and information on each of the three permits most likely required by WSDOT. The web site is at:

 <http://apps.ecy.wa.gov/permithandbook/handbook.asp>

Click on Air Quality Permits.

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see **Appendix G** for list of contacts). Other assistance is available from WSDOT's Environmental Services Office Air Quality Program, Mia Waters, 206-440-4541, watersy@wsdot.wa.gov, or John Maas, Asst. Program Manager, 206-440-4545, maasja@wsdot.wa.gov.

See the online Ecology Environmental Permit Handbook cited above for links to local clean air agency technical assistance staff.

For assistance from Ecology, the contacts for NOC permits are:

- Eastern Washington: Greg Flibbert, 509-329-3452, Gfli461@ecology.wa.gov
- Central Washington: Jared Mathey, 509-454-7845, Jama461@ecology.wa.gov

For other air quality permits, contact the State Permit Assistance Center, 360-407-7037 (800-917-0043), assistance@ora.wa.gov. The center is online at:

 <http://www.ecy.wa.gov/programs/sea/pac/servcenter.html>

(5) Information Last Updated

May 26, 2005

540.24 Hazardous Materials Requirements

(1) Overview

Extensive federal and state regulations govern the reporting, storage, transport, disposal, and clean-up of hazardous materials. WSDOT is responsible for compliance with these laws for itself, its contractors, and its tenants. Because of the potential for liability, WSDOT requires that the Environmental Services Office (ESO) Hazardous Materials Program be contacted for the necessary permits and approvals whenever hazardous materials are encountered or generated.

Chapter 447 contains a detailed discussion of the applicable laws and technical guidance for conducting initial site assessments, preliminary site investigations, and detailed site investigation/hazardous waste management plan. These investigations are conducted primarily during the site screening and evaluation process. The permits and approvals covered in this section are required primarily during construction, maintenance, and operation. The following discussion summarizes the key regulations and their relationship to WSDOT.

Agency Issuing Permit – Washington State Department of Ecology.

Statutory Authority – Federal and state regulations related to hazardous materials can be found via WSDOT’s Hazardous Materials Program:

 http://www.wsdot.wa.gov/environment/hazmat/haz_docpubs.htm

Regulated Activities – Storage, transportation or disposal of hazardous substance; spills or releases of hazardous substances; discovery of hazardous materials or leaky Underground Storage Tanks (USTs); temporary closure or removal of USTs; investigative soil boring or monitoring wells.

Exempt Activities – See each permit for details on exempt activities.

Geographic Extent – State of Washington

Types of Permits – The types of permits or approvals summarized below may be needed at various stages in project development, construction and/or maintenance. Contact the WSDOT ESO Hazardous Materials Program staff for guidance on how to proceed in any incident or situation involving hazardous materials.

- Resource Conservation and Recovery Act (RCRA) Site Identification (ID) Number – A RCRA Site ID number (also known as a “WAD Number”) is required for any transport, transfer, recycling, treatment, storage, or disposal of regulated quantities of hazardous waste. A manifest with the Site ID number must accompany wastes during generation, transportation, storage, and disposal. WSDOT’s regional Project Office applies for and maintains the Site ID number for each project.
- Dangerous (or hazardous) waste treatment, storage, and disposal facility (RCRA) – Facilities that store, treat, and/or dispose of dangerous waste must obtain a Dangerous Waste Permit for any dangerous waste activities that do not meet the less-stringent generator requirements.
- UST Notification (RCRA) – A state notification form, available from Ecology, must be completed to install or remove an UST. Notification is required 30 days before installing a new tank or removing an existing one. A certified/licensed professional must perform the installation or removal. Tanks existing before the federal regulation came into effect were to have been reported by May 8, 1986. Any such tanks for which a notification form has not been completed should be reported immediately. (See [Section 447.05\(7\)](#).) More information can be accessed at:

 <http://www.ecy.wa.gov/programs/tcp/ust-lust/tanks.html>

- Hazardous waste release notification (spills or releases) Model Toxics Control Act (MCTA) – Prompt notification to Ecology is required when a spill or release of hazardous substances has the potential to impact human health or the environment. Responsibility for reporting spills lies with the person who spills or releases the substance; however, any person aware of such spills is encouraged to contact Ecology. To report a spill, contact the National Response Center at 1-800-424-8802 or Washington State at 1-800-258-5990 or 1-800-OILS-911.
- Hazardous substance release notification requirement (MTCA) – This notification differs from the one above in that it applies to owners and operators. As an owner, WSDOT must report to Ecology any release or

threatened release of a hazardous substance on a WSDOT site. Report releases by phone or written report to the appropriate Ecology regional office.

- Report of independent remedial action (MCTA) – Anyone conducting an independent remedial action must submit a written report to Ecology within 90 days of completing the action.
- Monitoring Well Notification – Monitoring wells for long term monitoring of hazardous waste movement or contamination levels is regulated through a Notice of Intent to Ecology. Decommissioning of monitoring wells is regulated by Ecology and, in some specific regions and situations, by the county health authority.

Prerequisite Permits and Approvals – Varies depending on the permit.

Related Permits and Approvals – County health authorities should be contacted for applicable permit and approval requirements and regulations.

Interagency Agreements – WSDOT and Ecology have signed an Implementing Agreement on Hazardous Waste Management (April 1993). This agreement concerns hazardous waste management and reduction, site remediation, and regulatory compliance. The agencies agree to cooperate in carrying out their statutory responsibilities to meet state transportation requirements and protect public health and safety and the natural environment. The agreement sets forth procedures for each agency to follow in reaching its goals and objectives. The agreement is online at:

 http://www.wsdot.wa.gov/environment/hazmat/haz_docpubs.htm

Processing Time – Variable.

Fees – Variable.

(2) *How to Apply*

Contact the ESO Hazardous Materials Program staff in any situation involving hazardous substances where one or more of the above requirements may be applicable.

(3) *For More Information*

Please see **Chapter 447**, Hazardous Materials, for information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance. For information on procedures related to hazardous materials during construction see **Section 620.08**.

Additional background information is on WSDOT's Hazardous Materials web site:

 <http://www.wsdot.wa.gov/environment/hazmat/>

Ecology has prepared a schematic diagram illustrating the application and review process for RCRA Site ID Numbers; see **Exhibit 540-10** and online at:

 http://www.ecy.wa.gov/programs/sea/pac/ppds_info/RCRA_permit_schematic.pdf

(4) Permit Assistance

Contact WSDOT's ESO Hazardous Materials Program staff for guidance in any situation involving hazardous substances where one or more of these requirements may be applicable. Contact information for Hazardous Waste Specialists is on the ESO web site under the HazMat & Water Quality section, or by direct link:

 http://www.wsdot.wa.gov/environment/ES_StaffList.htm

For guidance in Eastern Washington, contact WSDOT Eastern Region Haz-Mat Specialist Dean Smith, 509-324-6136, or email SmithDM@wsdot.wa.gov. Assistance is also available from Hazardous Waste Specialists in regional Ecology offices:

- Northwest Regional Office, 425-649-7000
- Southwest Regional Office, 360-407-6300
- Central Regional Office, 509-575-2490
- Eastern Regional Office, 509-329-3400.

(5) Information Last Updated

May 9, 2005.

540.25 Other State Approvals

This section identifies state permits and approvals that are infrequently required for WSDOT projects:

- Water Right Permit
- Public Water System Approval – New or Alterations to Existing Systems
- Dam Construction Permit
- Reservoir Permit
- Temporary Exceedance of Water Quality Standards
- Soil Boring – Notice of Intent
- Beaver Trapping on WSDOT Property

WATER RIGHT – NEW, CHANGED, OR ASSIGNED

(1) Overview

Under Washington State law, users of public water must obtain a water right, in the form of a permit or certificate, from Washington State Department of Ecology (Ecology) before withdrawing water from surface and groundwater sources. A water right is a legal authorization to use a predefined quantity of public water for a designated beneficial use.

With much of the water in Washington already allocated, new water rights are increasingly difficult to obtain. In many areas, water is already claimed or over-appropriated and no new water rights are being granted. An alternative is to apply for a change in an existing water right or obtain an agreement with the owner of an existing water right to assign ownership to WSDOT.

Agency Issuing Permit – Washington State Department of Ecology.

Statutory Authority – RCW 90.03; RCW 90.44.

Regulated Activities – Use of surface of water (lakes, ponds, rivers, streams, or springs) or groundwater withdrawals of more than 5,000 gallons per day. A water right is required to develop a new source, to change the use of an existing water right, or to change the point of diversion. WSDOT may need a water right for construction of a new facility such as a rest area or maintenance facility, or for diversion of surface water to create a wetland mitigation site.

Exempt Activities – Groundwater withdrawal of less than 5,000 gallons per day.

Geographic Extent – State of Washington.

Types of Permits – A water right permit is issued by Ecology to develop a water source. Water right permits remain in effect until the water right certificate is issued, until all the terms of the permit are met, or until the permit is cancelled. A water right certificate is issued by Ecology to certify that the water user has the authority to use a specific amount of water under certain conditions. Recording the certificate with the county auditor completes the process of obtaining a water right.

Prerequisite Permits and Approvals – In watershed planning under the Watershed Management Act (RCW 90.82), Ecology may await the results of the water quantity and instream flow studies before making a water right permit decision.

Water rights using one cubic foot per second or less of surface water or of 2,250 gallons per minute or less of groundwater for any purpose are exempt from SEPA.

Related Permits and Approvals – A water system approval may be needed from Washington State Department of Health (DOH) for new water systems, alterations to existing systems, and new sources of supply (see below, [Section 540.25](#)).

Interagency Agreements – None applicable.

Processing Time – Depending on the complexities of water availability, the number of other applications on file, and water use in the watershed, a decision on a new water right may take anywhere from months to years. Ecology has a substantial backlog of pending applications and has adopted priorities for processing these requests.

Fees – Varies, \$10 minimum.

(2) How to Apply

Applications for a new water right, changed water right, or assignment of water right, and other forms can be downloaded from:

 <http://www.ecy.wa.gov/programs/wr/forms/forms.html>

JARPA – Not applicable.

Pre-application Conference – Advisable for most applications.

Special Information Requirements – Varies by whether the application is a new source, change of use, or change of ownership.

Public Notice – Published by the applicant after Ecology has accepted the application.

Submitting the Application – Submit the completed application form with appropriate maps or other information to the Ecology Regional Office where the project is located.

Agency and Public Review – Once an application is complete and accepted, Ecology sends WSDOT a legal notice of the application to publish in the county (or counties) where water is or will be withdrawn, stored, and used. The notice is to be published once a week for two consecutive weeks, followed by a 30-day public comment period.

After Ecology receives an affidavit of publication from WSDOT, the agency begins an investigation. Ecology can deny, approve, or approve with conditions.

Appeal Process – Within 30 days after being notified of a decision, WSDOT or other interested parties may appeal Ecology's decision to the state Pollution Control Hearings Board.

(3) For More Information

Please see **Chapter 433**, Groundwater, for information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance.

Ecology's web site has more information, including application forms and instructions; policies, procedures and case law; and frequently asked questions. See:

 <http://www.ecy.wa.gov>

Click on Programs, then Water Resources, then Water Right Information.

Or by direct link:

 <http://www.ecy.wa.gov/programs/wr/rights/water-right-home.html>

Ecology has prepared schematic diagrams illustrating the application and review process for obtaining a new or changed water right. The process for obtaining a new water right is in **Exhibit 540-11** and online at:

 http://www.ecy.wa.gov/programs/sea/pac/ppds_info/Water_Rights_New_Schematic.pdf

The process for changing a water right is in **Exhibit 540-12** and online at:

 http://www.ecy.wa.gov/programs/sea/pac/ppds_info/change_water_right.pdf

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see **Appendix G** for list of contacts).

For additional assistance from Ecology, contact Water Resources staff at the Ecology regional office in which the project is located. Contacts are online at:

 <http://www.ecy.wa.gov/org.html>

The statewide Water Resources Program can be reached by phone at 360-407-6600, and by fax at 360-407-7162.

- (5) **Information Last Updated**
April 27, 2005.

PUBLIC WATER SYSTEM APPROVALS – NEW OR ALTERATIONS TO EXISTING SYSTEMS

(1) **Overview**

Under state law, the DOH has review and approval authority over water system plans, project reports, and construction documents for new public drinking water systems and alterations or additions to existing systems. In many areas, the local health department does the review and approval for smaller systems (see [Section 550.10](#)).

WSDOT may occasionally need to design and construct a new public water system when developing a new safety rest area, ferry terminal or maintenance facility if no municipal connection is available. Because of the number of customers served, a rest area would be considered a Group A system, subject to the requirements of the federal Safe Drinking Water Act and regulations administered in Washington by DOH. A maintenance facility with less than 15 employees would be considered a Group B system, subject to state and local requirements for water quality and operations; approvals are usually obtained from the county health authority.

The two-part approval process for Group A non-community systems begins with justification and design review for a specific project, and then detailed construction documents. (Group A community (residential) systems have increased planning requirements that are significantly more complex.) Construction is not authorized until DOH approvals are received. Upon project completion, the professional engineer assigned to the project signs a document certifying that the project was constructed according to approved plans. The project/water system is then authorized to operate, and obligated to follow regulations for duties like routine water quality testing.

Agency Issuing Permit – Washington State Department of Health Office of Drinking Water (ODW) or local health department. Three regional offices handle specific areas of the state, as shown on the ODW web site:

 www.doh.wa.gov/ehp/dw

Statutory Authority – RCW 43.20A, WAC 246-290 (Group A systems), WAC 246-291 (Group B systems); WAC 246-294 (Operating Permit); 42 USC Chapter 6A (Safe Drinking Water Act); 40 CFR 141 and 143.

Regulated Activities – Furnishing water to two or more service connections for human consumption and domestic use, including governmental, commercial, industrial or irrigation. WSDOT needs a water system approval for construction of a new facility such as a rest area, maintenance facility, or ferry terminal, even if exempt from a water right requirement.

Exempt Activities – Non-consumptive uses like irrigation, construction, or sanitary sewer/septic.

Geographic Extent – State of Washington (divided into three regions).

Types of Permits – Water System Construction and Operation Approval. If a Group A system, Operating Permit.

Prerequisite Permits and Approvals – For Group A community systems (not non-community systems) DOH Office of Drinking Water coordinates review and approval of water system plans with Ecology's Water Resources Program for water rights issues. DOH withholds approval of water system plans if Ecology takes an appealable action with respect to the water rights. SEPA is normally completed as part of the overall project.

Related Permits and Approvals – A water right from Ecology may need to be obtained for withdrawal of surface or groundwater (see above, [Section 540.25](#)). Before construction, the well site must be inspected and approved by the local health authority. Special emphasis is placed on the sanitary control area – a zone of specific size where contamination threats are not allowed – around the water source that protects the source. Then the well driller obtains a Water Well Construction Permit from Ecology and the well is drilled and tested. After DOH approval of the water system design, construction can begin. When construction is complete, an operating permit must be obtained from DOH (Group A systems) or approval given by the local health authority (Group B systems). Note that in some counties, the Group B reviews are conducted by DOH.

Interagency Agreements – None applicable.

Processing Time – Varies depending on system class: new Group A Community systems, generally within 90-120 days; Group A Non community and Group B, usually less. Project reviews have a 30 day turnaround; approval time depends on the completeness of the design submittal.

Fees – Varies depending on type of approval, system class, and number of services.

(2) *How to Apply*

For Group A systems, the standard project submittal includes a Water System Plan (only applies to community systems), Project Report, and Construction Documents. Three other forms are also required: Project Approval Application, Water System Plan Checklist (only applies to community systems), and Construction Completion Report. The latter is due at project completion; the others come with the initial submittal. A pre-plan meeting with DOH staff is advised for development of a water system plan (only applies to community systems).

In addition, if the project involves approval of a new source or increased system physical capacity, a completed Water Right Self-Assessment Form must also be included in submittal package.

For Group B systems, contact the local health department for application requirements. Most have a standard workbook to be completed and submitted.

JARPA – Not applicable.

Pre-application Conference – Advisable for Group A systems. Contact the regional office.

Special Information Requirements – None.

Public Notice – None.

Submitting the Application – Submit Group A applications and engineering documents to the DOH Office of Drinking Water regional office.

Southwest: Post Office Box 47823, Olympia, Washington 98504-7823;
Northwest: 20435 – 72nd Avenue S, Suite 200, Kent, Washington 98032;
Eastern: 1500 West 4th Avenue, Suite 305, Spokane, Washington 99204.
Telephone 800-521-0323. Submit Group B applications to the local health authority, or to DOH if the county does not handle them.

Agency and Public Review – Not applicable.

Appeal Process – The purveyor may formally appeal the decision of DOH through procedures in WAC 246-10.

Post-permitting Requirements – The water system will have on-going monitoring and reporting requirements, as specified by WAC. Details may be obtained from the regional office.

(3) For More Information

Please see **Chapter 433**, Groundwater, for information on environmental documentation initiated during the NEPA/SEPA process, including relevant statutes, interagency agreements, policy and technical guidance.

Detailed information is available online at the DOH Office of Drinking Water web site:

 <http://www.doh.wa.gov/ehp/dw/default.htm>

The *Water System Design Manual* is a 300-page guidance document that serves as a start-to-finish reference for designers of water systems, including discussion of construction documents, plan approval, water sources, and reservoir and booster pump station design. The manual can be accessed online at:

 <http://www.doh.wa.gov/ehp/dw/publications/design.htm>

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see **Appendix G** for list of contacts). For assistance from DOH, contact Office of Drinking Water regional staff:

Southwest – 360-664-0768

Northwest – 253-395-6750

Eastern – 509-456-3115

Current contacts are online at:

 http://www.doh.wa.gov/ehp/dw/Staff_Lists/dwnames.htm

For information on Group B systems, contact Dennis Campbell at DOH, 360-236-3158, dennis.campbell@doh.wa.gov. Office of Drinking Water headquarters can be reached by phone at 800-521-0323 or 360-236-3100, and by fax at 360-236-2253.

- (5) **Information Last Updated**
May 13, 2005.

DAM CONSTRUCTION PERMIT

(1) Overview

Under state law, Ecology is responsible for regulating dams that capture and store at least 10 acre-feet of water or liquid waste. Before constructing, modifying, or repairing such a dam, a Dam Construction Permit is required. Through plan review and construction inspection, Ecology's Dam Safety Office (DSO) helps ensure these facilities are properly designed and constructed to secure the safety of human life and property.

Agency Issuing Permit – Washington State Department of Ecology.

Statutory Authority – RCW 90.03.350; WAC 173-175.

Regulated Activities – Constructing, modifying, or repairing a dam that captures and stores at least 10 acre-feet of water or liquid waste. An example of where WSDOT might need this permit would be for a highway project adjacent to a reservoir where modification required reconstruction of the reservoir embankment.

Exempt Activities – Federally owned dams or hydropower dams regulated by the Federal Energy Regulatory Commission are exempt from state regulation.

Geographic Extent – State of Washington.

Types of Permits – Individual Dam Construction Permit.

Prerequisite Permits and Approvals – SEPA is completed by Ecology as part of the permit process. A water right and a reservoir permit may be required for the impoundment.

Related Permits and Approvals – A Reservoir Permit is also required for construction of any dam or dike that will be capable of impounding water to a depth of 10 feet or more at any point, or will impound a volume of 10 acre-feet or more at normal pool level (see below, [Section 540.25](#)). This permit authorizes use of the impounded water, whereas the Dam Construction Permit authorizes construction after Ecology is assured that safety standards will be met.

A number of other local, state, and federal permits and approvals are often required for the construction of a dam. These include the Dam Safety – Operation and Maintenance Plan and Simplified Emergency Action Plan Form. Contact Ecology's Office of Regulatory Assistance for more information (1-800-917-0043).

Interagency Agreements – None applicable.

Processing Time – In general, allow 60 days for plan review by the Dam Safety Office. During the summer and fall construction season, workload for construction inspection and periodic inspection of existing dams reduces the time for plan review. Where possible, applicants are requested to submit plans in the winter or early spring to allow sufficient lead time.

Fees – Permit fees range from \$1,400 to \$56,000 depending on the size of the project, calculated based on height and crest length of the dam. The complete fee schedule is in WAC 173-175-350.

(2) How to Apply

Project plans must be designed to conform with regulations in WAC 173-175 and guidance contained in Part IV of the Dam Safety Guidelines.

An application for a construction permit must be submitted when the first substantive engineering information about the proposed project becomes available, usually when conceptual plans are completed. The form is available online at:

 <http://www.ecy.wa.gov/pubs/ecy07038.pdf>

JARPA – Not applicable.

Pre-application Conference – Advisable but not required.

Special Information Requirements – See application requirements.

Submitting the Application – Submit the application, with application fee, to:

Washington State Department of Ecology
Dam Safety Office
PO Box 47600
Olympia, WA 98504-7600

Agency and Public Review – Submittal of the Dam Construction Permit application form initiates Ecology's plan review process. The DSO reviews engineering reports, plans and specifications, and the construction inspection plan to ascertain that the proposed project will be designed and constructed in a manner which will reasonably secure safety to life and property. Changes may be required to conform to dam safety regulations and guidelines or accepted engineering practice.

Appeal Process – Same process as for Water Rights (see above).

Post-permitting Requirements – Within 30 days after dam construction or modification is completed, the project engineer is required to submit a Declaration of Dam Construction Completion stating that the project was or was not constructed in accordance with the plans, specifications construction change orders approved by the Dam Safety Office.

(3) For More Information

For additional resources, including engineering guidelines, see the Dam Safety Office web page at:

 <http://www.ecy.wa.gov/>

Click on Programs, then Water Resources, then Dam Safety Office, then Engineering Guidelines.

Or by direct link:

 <http://www.ecy.wa.gov/programs/wr/dams/dss.html>

(4) Permit Assistance

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see [Appendix G](#) for list of contacts). For assistance from Ecology, contact information for the Dam Safety Office staff is online at:

 <http://www.ecy.wa.gov/programs/wr/dams/dss.html#contacts>

(5) Information Last Updated

April 27, 2005.

RESERVOIR PERMIT – IMPOUNDING OF WATER

(1) Overview

Under the state water code, a Reservoir Permit from Ecology is required before constructing any barrier across a stream, channel, or water course, if the barrier will create a reservoir. A reservoir is defined as a dam or dike that will store water to a depth of 10 or more feet at its deepest point, or one that will retain 10 or more acre-feet of water. (Note that a finished water storage reservoir on a water distribution system is regulated by the Washington State Department of Health; see information regarding public water systems, above.)

WSDOT may need this permit for wetland or wildlife mitigation sites where an impoundment of water is proposed. Unless otherwise specified, a reservoir permit will allow the permit holder to fill the reservoir once a year and to use the specified quantity of water, as a maximum, for the purposes stated in the permit. The permit specifically states the period during the reservoir may be filled, usually during winter or runoff periods.

Agency Issuing Permit – Washington State Department of Ecology

Statutory Authority – RCW 90.03.370; WAC 173-175.

Regulated Activities – Any proposed impounding structure that obstructs a stream or watercourse; any excavation and/or dike to be built off-channel from any stream or watercourse; and any impounding structure that will increase the depth or capacity of an existing reservoir so it equals or exceeds the above standards.

Exempt Activities – A reservoir permit and/or appropriation permit is not required if the reservoir is used exclusively for silt retention or flood control purposes. However, approval of plans and specifications may be required.

Geographic Extent – State of Washington.

Types of Permits – Individual Reservoir Permit.

Prerequisite Permits and Approvals – SEPA is completed by Ecology as part of the permit process.

Related Permits and Approvals – Normally, a reservoir permit application is accompanied by an application for a permit to use water (see above, [Section 540.25](#), Water Right). This application describes the intended beneficial uses of water that will be withdrawn from the reservoir. A separate appropriation application may be needed if additional water use is required.

A Dam Construction Permit is also required for construction, modification or repair of any dam or dike that will store 10 or more acres of water or liquid waste (see above, [Section 540.25](#)). This permit authorizes construction after Ecology is assured that safety standards will be met, whereas the Reservoir Permit authorizes use of the impounded water.

Interagency Agreements – None applicable.

Processing Time – Varies depending on project complexity.

Fees – A statutory \$10 examination fee must accompany all applications for a reservoir permit. This basic fee applies to applications for storage of up to 1,000 acre-feet of water. For larger impoundments, additional examination will be requested.

(2) How to Apply

The Reservoir Permit application can be downloaded from the Dam Safety Office web site or directly at:

 <http://www.ecy.wa.gov/biblio/ecy040160a.html>

JARPA – Not applicable.

Pre-application Conference – Advisable but not required.

Special Information Requirements – Information on the use and capacity of the reservoir, and a legal description of the location of the structure.

Public Notice – A legal notice must be published for two succeeding weeks after submitting the permit to Ecology.

Submitting the Application – The application is submitted to the Ecology Regional Office where the project is located. Regional offices are online at:

 <http://www.ecy.wa.gov/org.html>

Agency and Public Review – Same process as for Water Right (see above).

Appeal Process – Same process as for Water Right (see above).

(3) For More Information

For additional resources, including general information on reservoir permits and application instructions, see the Dam Safety Office web page at:

 <http://www.ecy.wa.gov/>

Click on Programs, then Water Resources, then Dam Safety Office.

Or by direct link:

 <http://www.ecy.wa.gov/programs/wr/dams/dss.html>

Instructions for the Application for a Reservoir Permit can be accessed at:

 <http://www.ecy.wa.gov/biblio/ecy040182.html>

Before beginning work on this permit, contact the WSDOT regional office environmental staff for guidance (see [Appendix G](#) for list of contacts). For

assistance from Ecology, contact information for the Dam Safety Office staff is online at:

 <http://www.ecy.wa.gov/programs/wr/dams/dss.html#contacts>

(4) Information Last Updated

May 13, 2005.

TEMPORARY EXCEEDANCE OF WATER QUALITY STANDARDS – TURBIDITY MIXING ZONE

(1) Overview

State regulations authorize Ecology to issue short-term water quality modifications on a site-specific basis if necessary to accommodate essential activities, respond to emergencies or otherwise protect the public interest. Two of the conditions covered by the regulations – aquatic application of pesticides and control or eradication of noxious weeds – are now approved through an NPDES Programmatic Permit (see [Section 540.08](#)). The third, temporary increases in turbidity during and immediately after in-water or shoreline construction activities, is covered through special conditions attached to an Implementing Agreement between Ecology and WSDOT and summarized here. Conditions attached to the agreement require WSDOT and its contractors to comply with state water quality standards and define circumstances when temporary exceedance of the turbidity standard is authorized.

Agency Issuing Permit – Washington State Department of Ecology.

Statutory Authority – WAC 173-201A.

Regulated Activities – Shoreline or in-water work resulting in a temporary increase in turbidity associated with the disturbance of sediments within a defined mixing zone. Use of a turbidity mixing zone is intended for brief periods – a few hours or days – not the duration of construction. Use of the mixing zone is authorized only after all other necessary local and state permits and approvals have been received and after implementation of appropriate BMPs to avoid or minimize disturbance in in-place sediments and exceedance of turbidity criteria. Within the mixing zone, the turbidity standard is waived, and all other applicable water quality standards remain in effect.

Exempt Activities – Not applicable.

Geographic Extent – Shorelines and waters of the state.

Types of Permits – No permit is required. The Implementing Agreement acts as the approval (see below, Interagency Agreements).

Prerequisite Permits and Approvals – Activities must comply with all water quality protection related conditions contained in the Washington State Department of Fish and Wildlife (WDFW) Hydraulic Project Approval, including time limitations (see [Section 540.15](#)).

Related Permits and Approvals – Section 401 Water Quality Certification (see [Section 540.02](#)).

Interagency Agreements – The November 2004 Compliance Implementing Agreement between WSDOT and Ecology is designed to assist in obtaining and maintaining WSDOT compliance with state water quality standards, including

compliance with Section 401 Certifications, Section 402 NPDES permits, Implementing Agreements, and other Ecology Orders and approvals.

The February 1998 Implementing Agreement between Ecology and WSDOT regarding compliance with state surface water quality standards is designed to ensure that WSDOT activities are in compliance with state surface water quality standards through general and activity specific conditions. General conditions deal with concrete work, erosion control, spill response, and monitoring. Activity specific conditions address several categories of work that may effect surface water quality standards. This document is expected to be revised during the fall of 2005 and be renewed by the spring of 2006.

Both agreements are online at the WSDOT's ESO compliance web site or by direct link:

 <http://www.wsdot.wa.gov/environment/Programmatics/default.htm#interagency>

Fees – None.

(2) *How to Apply*

Not applicable. For more information, contact the WSDOT regional office environmental staff for guidance (see **Appendix G** for list of contacts). Other assistance is available from WSDOT's Environmental Services Office by contacting Gregor Myhr, Permit Program Manager, 360-705-7487, or email MyhrG@wsdot.wa.gov.

(3) *Information Last Updated*

April 27, 2005.

SOIL BORING NOTICE OF INTENT – MONITORING AND RESOURCE PROTECTION WELLS AND GEOTECHNICAL INVESTIGATIONS

(1) *Overview*

Soil borings usually are done in the scoping phase of several roadway construction activities and are often needed:

- To inventory possible Hazardous Waste contamination in the soil of a potential property considered for right-of-way purchase.
- To investigate the geo-tech properties of the existing soil when designing bridge components such as piers and abutments.
- To investigate the geo-tech properties on proposed rock cuts or steep soil embankment cuts associated with corridor improvements.

Soil boring may be performed by WSDOT's Headquarters Materials Lab staff and equipment, or by a contractor. No permit is required unless the boring is followed by de-commissioning of a monitoring well.

When a monitoring well is commissioned in one of these soil borings to monitor hazardous waste movement or contamination levels over an extended period, it is regulated through a Notice of Intent (NOI) submitted to Ecology. The decommissioning of monitoring wells is regulated by Ecology and sometimes by the county health authority.

For further information, contact the WSDOT ESO Hazardous Materials Program or see Ecology's web site.

 <http://www.ecy.wa.gov/>

Click on Programs, Water Resources, then Well Construction and Licensing.

Or by direct link:

 <http://www.ecy.wa.gov/programs/wr/wells/wellhome.html>

Agency Issuing Permit – Washington State Department of Ecology.

Interagency Agreements – None applicable.

(2) How to Apply

Notification forms are available from Ecology regional offices. Submit the NOI and check or money order payable to the Department of Ecology, P.O. Box 5128, Lacey, WA 98509-5128. Fees are variable. There is no review process or expiration date. WSDOT has six months from the day Ecology receives the NOI to request a refund.

(3) Information Last Updated

April 27, 2005.

BEAVER TRAPPING ON WSDOT PROPERTY

(1) Overview

WSDOT may need to trap beavers when they block culverts with their dam-building activity and threaten public safety through the flooding and erosion that follow. Under a statewide initiative passed in 2000, non-live traps can be used only under specific criteria, including the requirement that the animal is creating a public safety problem. No permit is required if a live trap is used. However, the person performing the trapping must have a trapping license from WDFW.

For other types of traps, a permit is required. A one-page animal trapping form must be submitted, allowing several days for WDFW to process the application. Details and links are on WSDOT's ESO web site:

 <http://www.wsdot.wa.gov/environment>

Click on Programmatic Permits, then Beaver Trapping on WSDOT Property under Permitting Tools and Help

Or by direct link:

 <http://www.wsdot.wa.gov/environment/Programmatics/BeaverTrapping.htm>

Agency Issuing Permit – Washington State Department of Fish and Wildlife

Statutory Authority – RCW 77.15.194; WAC 232-12-142.

Regulated Activities – The take of problem animals by methods other than live trapping when live trapping methods are not justified or feasible.

Processing Time – 1 to 2 days.

Fees – No fee.

(2) **How to Apply**

The application can be viewed and completed on line. Once filled in, print out the application and follow the mailing instructions.

 <http://www.wsdot.wa.gov/environment/Programmatics/docs/ApplicationPermitTrapAnimal.doc>

For more information, contact the WDFW Area Habitat Biologist and the WSDOT Regional Maintenance Environmental Coordinator.

(3) **Information Last Updated**

April 27, 2005.

540.26 Exhibits

Exhibit 540-1 – Ecology schematic illustrating the application and review process for Section 401 Water Quality Certification (**Section 540.02**).

Exhibit 540-2 - Ecology schematic illustrating the application and review process for CZM Consistency Certification. (**Section 540.03**).

Exhibit 540-3 – Ecology schematic illustrating the application and review process for coverage under the NPDES Construction Stormwater General Permit. (**Section 540.04**).

Exhibit 540-4 – Ecology schematic illustrating the application and review process for coverage under the NPDES Industrial Stormwater General Permit. (**Section 540.07**).

Exhibit 540-5 – Ecology schematic illustrating the application and review process for the State Waste Discharge Permit. (**Section 540.12**).

Exhibit 540-6 – Ecology schematic illustrating the application and review process for the Hydraulic Project Approval. (**Section 540.15**).

Exhibit 540-7 – Ecology schematic illustrating the application and review process for the Fish Habitat Enhancement Exemption (**Section 540.15**).

Exhibit 540-8 – DOH schematic illustrating the application and review process for the On-Site Sewage Disposal Permit. (**Section 540.21**).

Exhibit 540-9– Ecology schematic illustrating the application and review process for the Air Quality Notice of Construction. (**Section 540.23**).

Exhibit 540-10 – Ecology schematic illustrating the application and review process for the RCRA Site Identification Number. (**Section 540.24**).

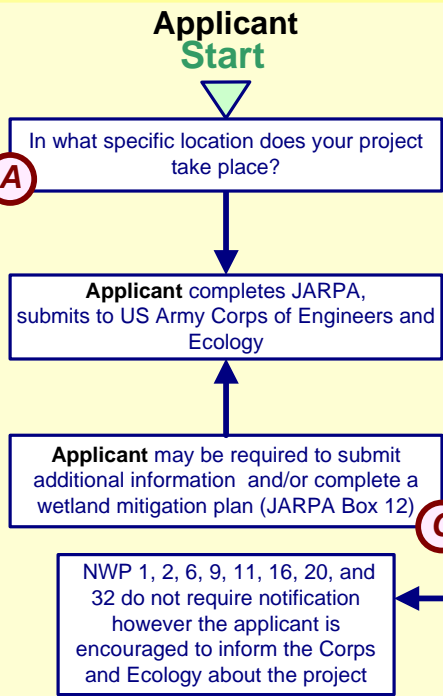
Exhibit 540-11 – Ecology schematic illustrating the application and review process for obtaining a new Water Right (**Section 540.25**).

Exhibit 540-12 – Ecology schematic illustrating the application and review process for changing a Water Right. (**Section 540.25**).

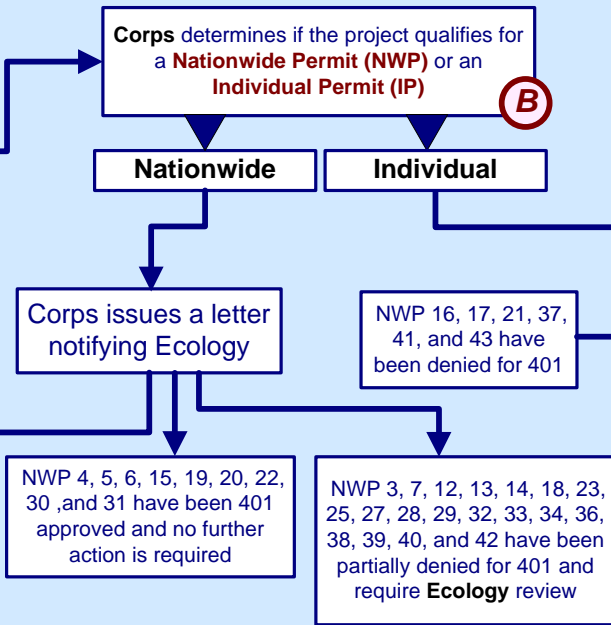
Application Phase

Review and Issuance Phase

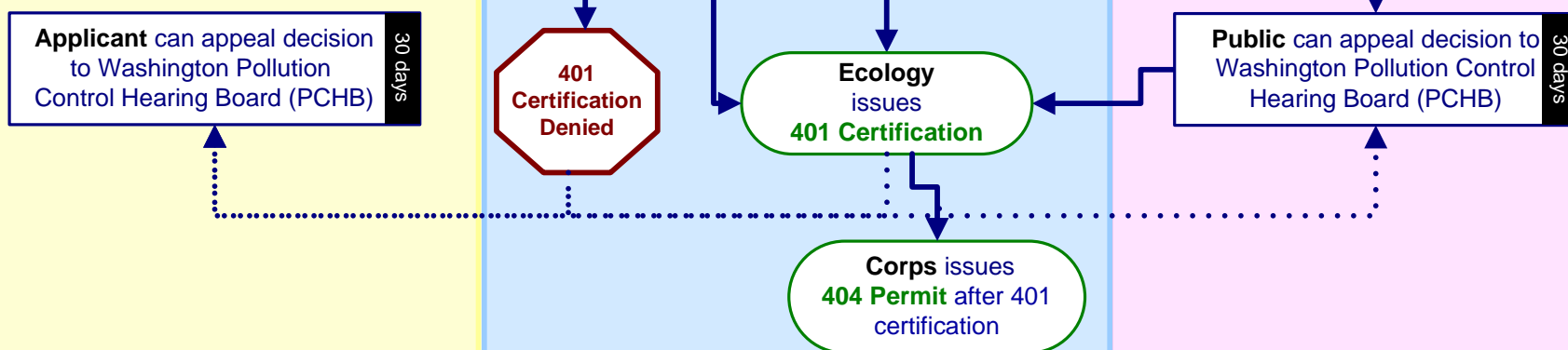
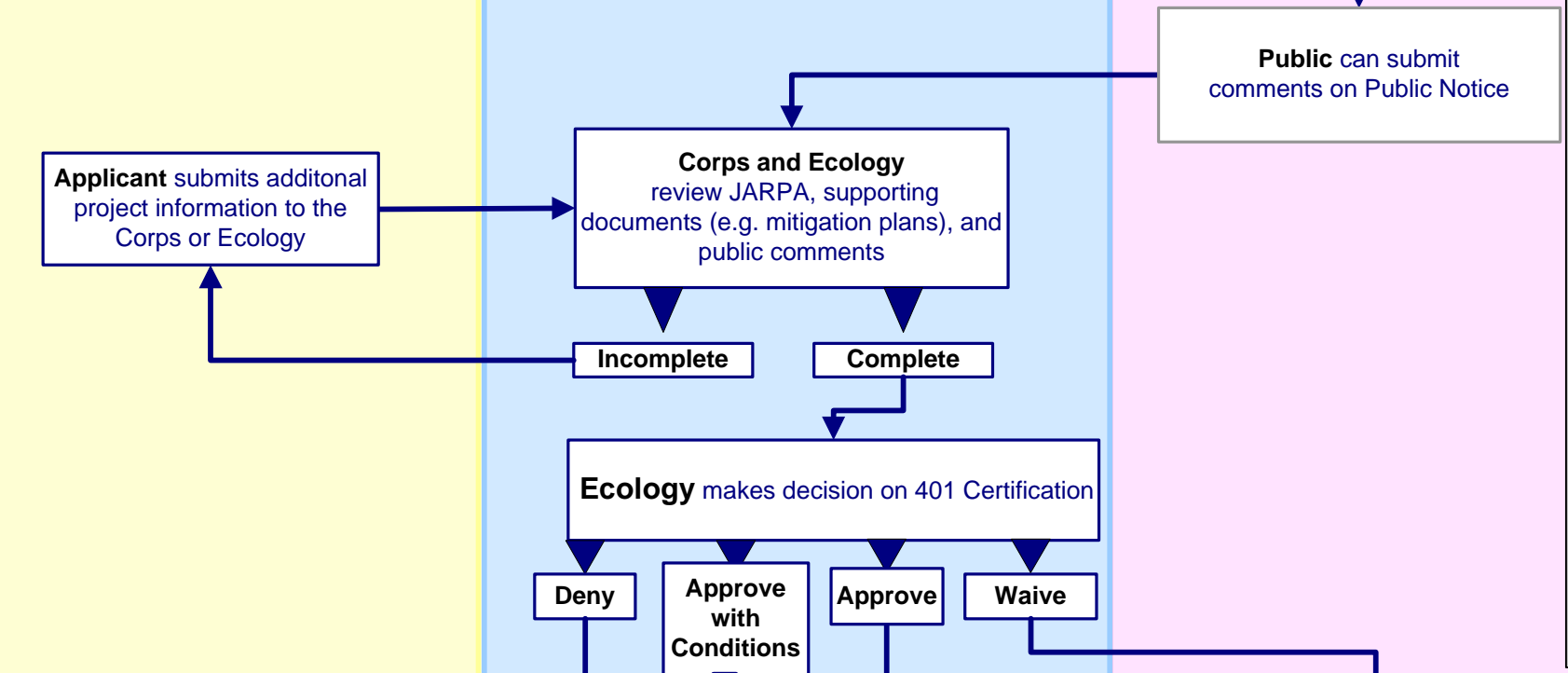
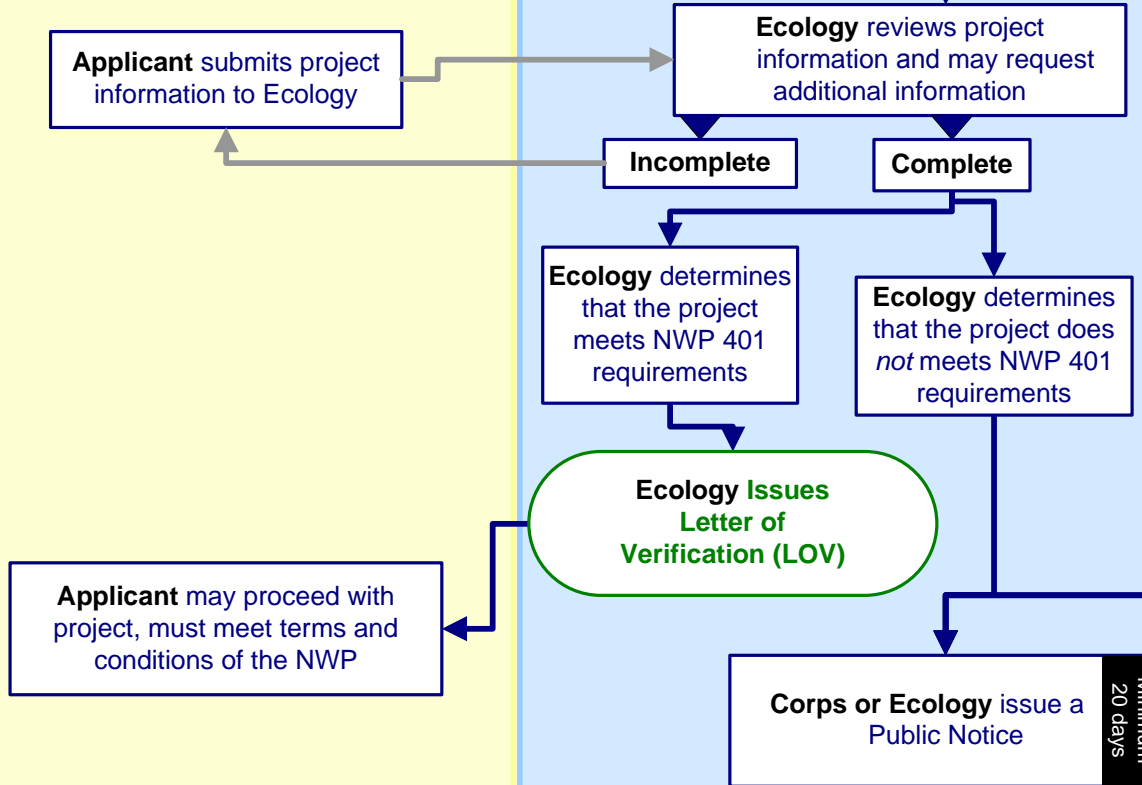
Appeal Phase



Washington Department of Ecology (Ecology) and US Army Corps of Engineers(Corps)



Public or Other Interested Party



180 days from receipt of Corps information to issuance of Public Notice or Letter of Verification

Maximum 360 days from application to decision for an Individual Permit

180 days from Public Notice to Ecology decision for NWP that requires an Individual 401

Legend: **A** =Hyperlink → =Progression → =Revision =Optional

For more information on this or any permitting process visit <http://www.ora.wa.gov> or call the Washington State Office of Regulatory Assistance at (800) 917-0043.

Coastal Zone Management Certification
(CZM)



Application Phase

Review and Decision Phase

Appeal Phase

Applicant

Washington Department of Ecology
(Ecology)

Public or Other Interested Party

Start

(A) Applicant reviews activities requiring Coastal Zone Management Consistency (triggering mechanisms)

not required

No Permit Required

Coastal Zone Management Consistency may not be required if the project is outside of the 15 Coastal Counties

(B) Applicant completes Determination of Consistency or statement form and develops a Federal Consistency Document (FCD)

(C) Applicant submits Determination of Consistency Checklist and develops an FCD for Federal Agency and Ecology

Ecology reviews determination or statement form and FCD for completeness

Variable

Complete

Incomplete

(D) Public Notice issued by appropriate agency upon receipt of complete checklist and FCD

Minimum 21 Days

Public submits written comments to Ecology

Minimum 21 Days

Ecology reviews complete checklist and FCD and public comments

Ecology issues decisions:

For non-federal agency activities requiring Federal Approval (Permits/Licenses) or activities using Federal funding

(E) Object

(F) Concur

(G) Concur with Conditions

Consistency Denied

Ecology issues Coastal Zone Management Certification

For Federal Agency activities

(H) Object

Concur

Concur with Conditions

Consistency Denied

Ecology issues Coastal Zone Management Consistency

(I) Applicant can appeal to Secretary of Commerce

Applicant can enter mediation with Secretary of Commerce

Appeal to Pollution Control Hearings Board (PCHB)

Within 30 Days

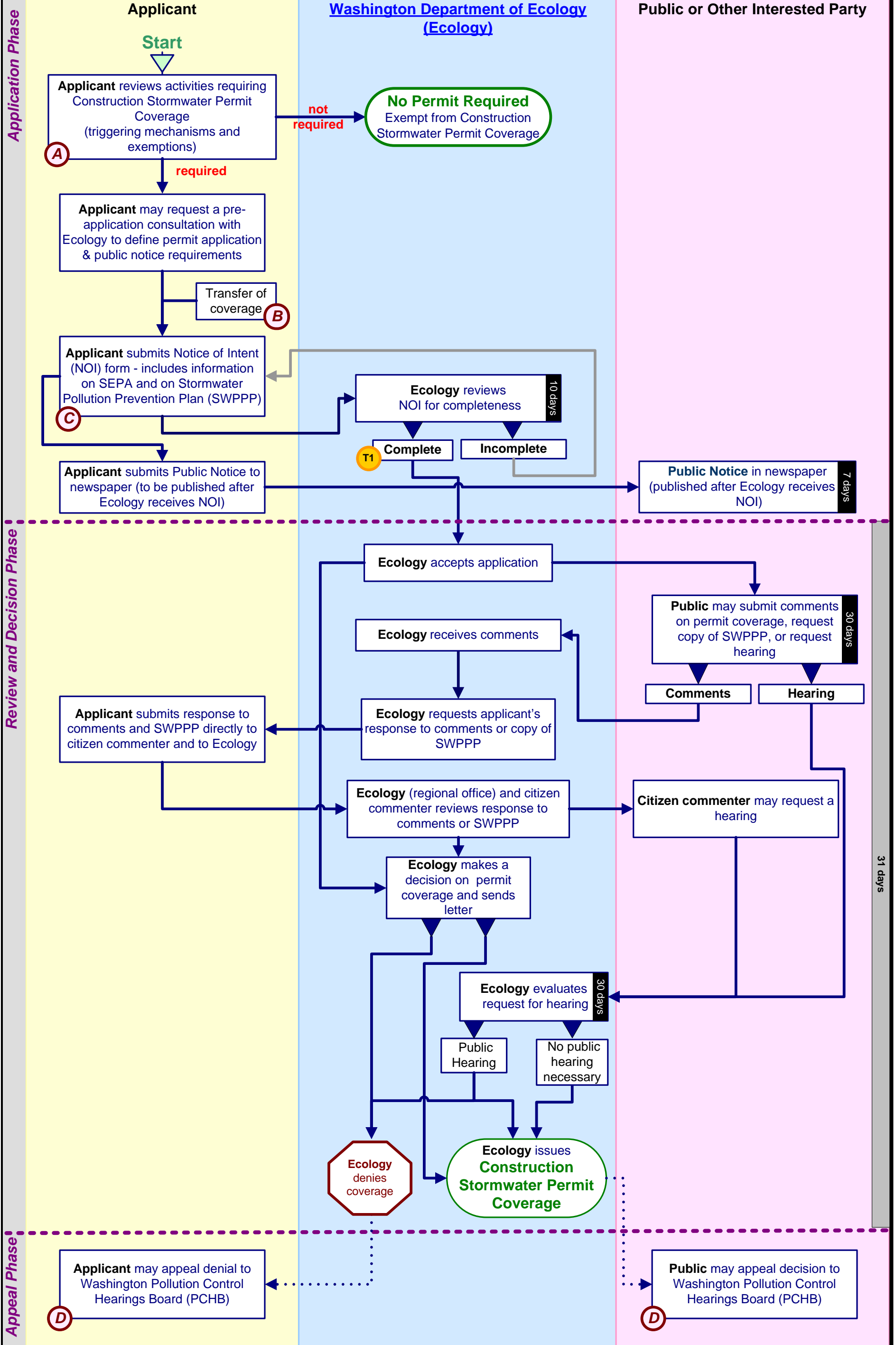
6 Months

60 days plus option

Legend: (A) =Hyperlink → =Progression → =Revision > =Optional

For more information on this or any permitting process visit <http://www.ora.wa.gov> or call the Washington State Office of Regulatory Assistance at (800) 917-0043.

NPDES Construction Stormwater General Permit Coverage



Legend: **A** =Hyperlink **T** =Timeliness Target → =Progression —> =Revision · · ▶=Optional

For more information on this or any permitting process visit <http://www.ora.wa.gov> or call the Washington State Office of Regulatory Assistance at (800) 917-0043.

NPDES Industrial Stormwater General Permit



Application Phase

Applicant

Washington Department of Ecology
(Ecology)

Public or Other Interested Party

Start

Applicant reviews activities requiring industrial stormwater permit requirements
To transfer or terminate permit seek link **D** or **E**

not required

No Permit Coverage Required
“no exposure certificate” requires renewal in 5 years

required

Applicant determines if facility has stormwater exposure issues

Exposure

No Exposure

Applicant completes no exposure application on-line

Ecology grants **Conditional No Exposure Certificate**

Ecology reviews no exposure application

Ecology denies No Exposure Certificate

Ecology reviews application package for completeness

Complete

Incomplete

Public can submit written comments relating to application to Ecology

30 days

Applicant prepares Application for General Permit to Discharge Stormwater Associated with Industrial Activity Form [Application Form] and Stormwater Pollution Prevention Plan (SWPPP) and submits to Ecology

Ecology reviews application information and public input

Public can request public hearing from Ecology

Applicant prepares and submits Public Notice for newspaper

Ecology determines need for a public hearing

Hearing Not Needed

Hearing Needed

30 days

Ecology holds public hearing

Ecology issues or denies permit coverage

Deny

Issue

45 days

T1

Decision Phase

Applicant can appeal decision to Washington Pollution Control Hearings Board (PCHB)

Permit Denied

Ecology issues **Industrial Stormwater Permit**

Public can appeal decision to Washington Pollution Control Hearings Board (PCHB)

30 days

Applicant submits annual permit fee to Ecology

Ecology notifies applicant, and bills applicant when necessary

To view the **Industrial Stormwater Permit Transfer Process Schematic** click on link **D**

D

To view the **Industrial Stormwater Permit Termination Process Schematic** click on link **E**

E

Legend: **(A)** =Hyperlink **(T)** =Timeliness Target **→** =Progression **→** =Revision · **▶** =Optional

For more information on this or any permitting process visit <http://www.ora.wa.gov> or call the Washington State Office of Regulatory Assistance at (800) 917-0043.



Application Phase

Review and Issuance Phase

Appeal Phase

Applicant

Washington Department of Ecology
(Ecology)

Public or Other Interested Party

Start

(A) Applicant reviews activities requiring an State wastewater discharge permit (triggering mechanisms and exemptions)

not required

No Permit Required

required

(B) Applicant submits application, cover letter, engineering report as necessary and fee to Ecology

Ecology reviews application for completeness

variable

Complete

Incomplete

Ecology requests resubmittal

Ecology prepares Public Notice of Application (PNOA) for public review

Public reviews PNOA

30 days

Public comments to Ecology

Ecology evaluates discharge for conventional, non-conventional, and toxic pollutants and priority of the discharge

High Priority

Low Priority and no action on application for 60 days

Ecology develops effluent limits and best management practices. The most stringent limit or requirement is placed in the permit.

Ecology issues letter of authorization of temporary permit. Discharge is according to application. Authorization is for a maximum of 5 years.

Ecology develops Special Conditions and Monitoring Requirements

Ecology prepares Permit, Fact Sheet and supporting documentation

Applicant conducts first review of proposed NPDES Permit

30 days

Ecology issues Public Notice of Draft (PNOD) Copies of the draft permit and fact sheet are posted on the internet and mailed to interested parties

Ecology responds to public comments and may modify the permit conditions

Public can submit written comments to Ecology

30 days

Public can request public hearing from Ecology

Applicant can appeal decision to Washington Pollution Control Hearing Board (PCHB)

Ecology issues Final NPDES Permit

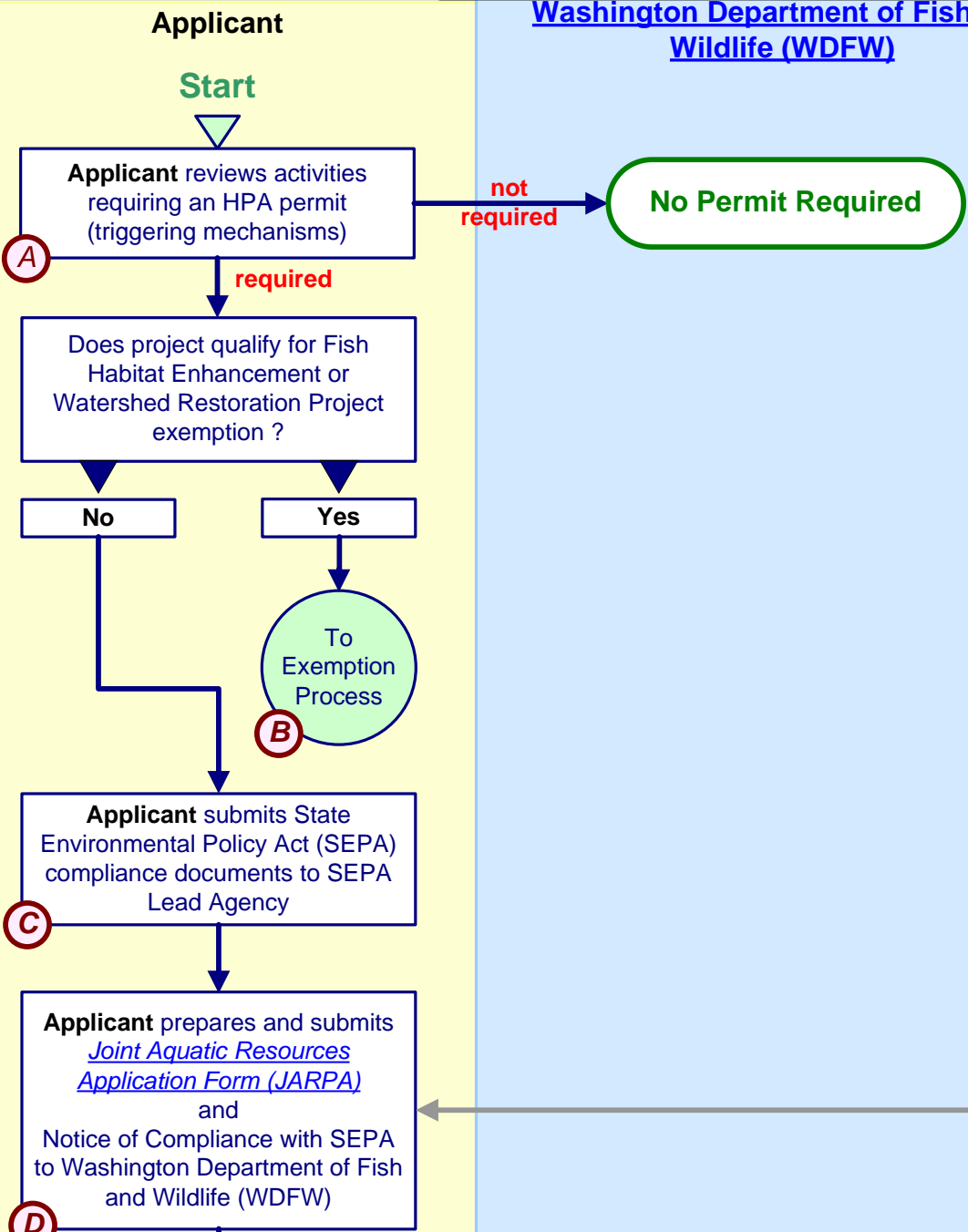
Public can appeal decision to Washington Pollution Control Hearing Board (PCHB)

Legend: (A) =Hyperlink → =Progression → =Revision =Optional

For more information on this or any permitting process visit <http://www.ora.wa.gov> or call the Washington State Office of Regulatory Assistance at (800) 917-0043.



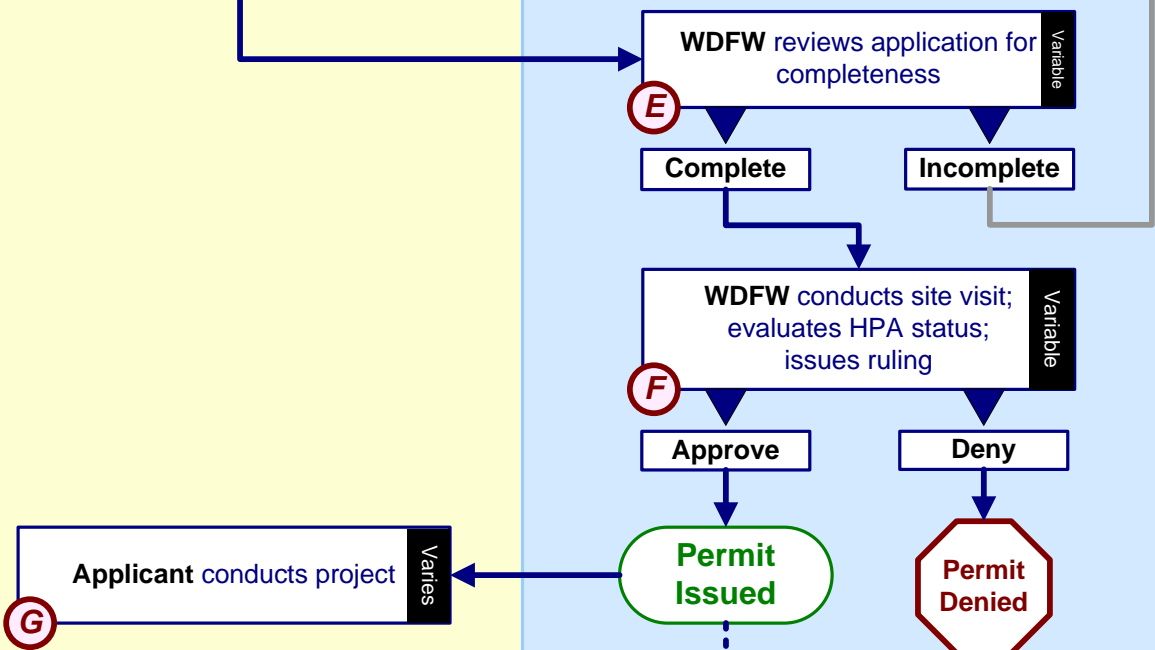
Application Phase



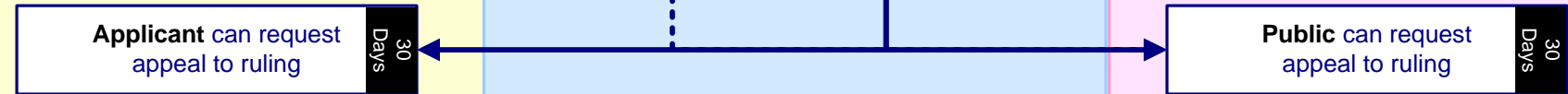
Washington Department of Fish and Wildlife (WDFW)

Public or Other Interested Party

Review and Decision Phase

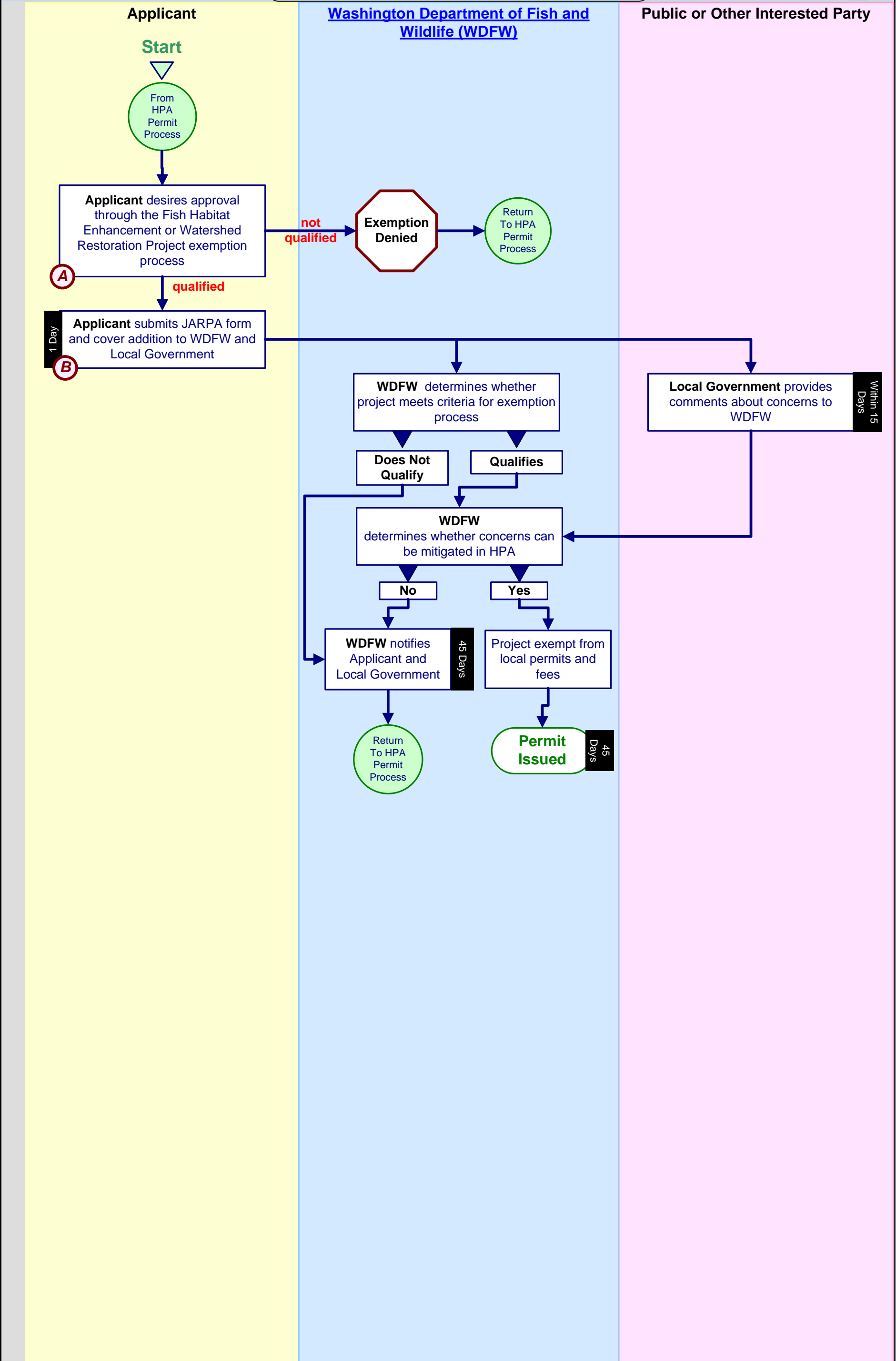


Appeal Phase

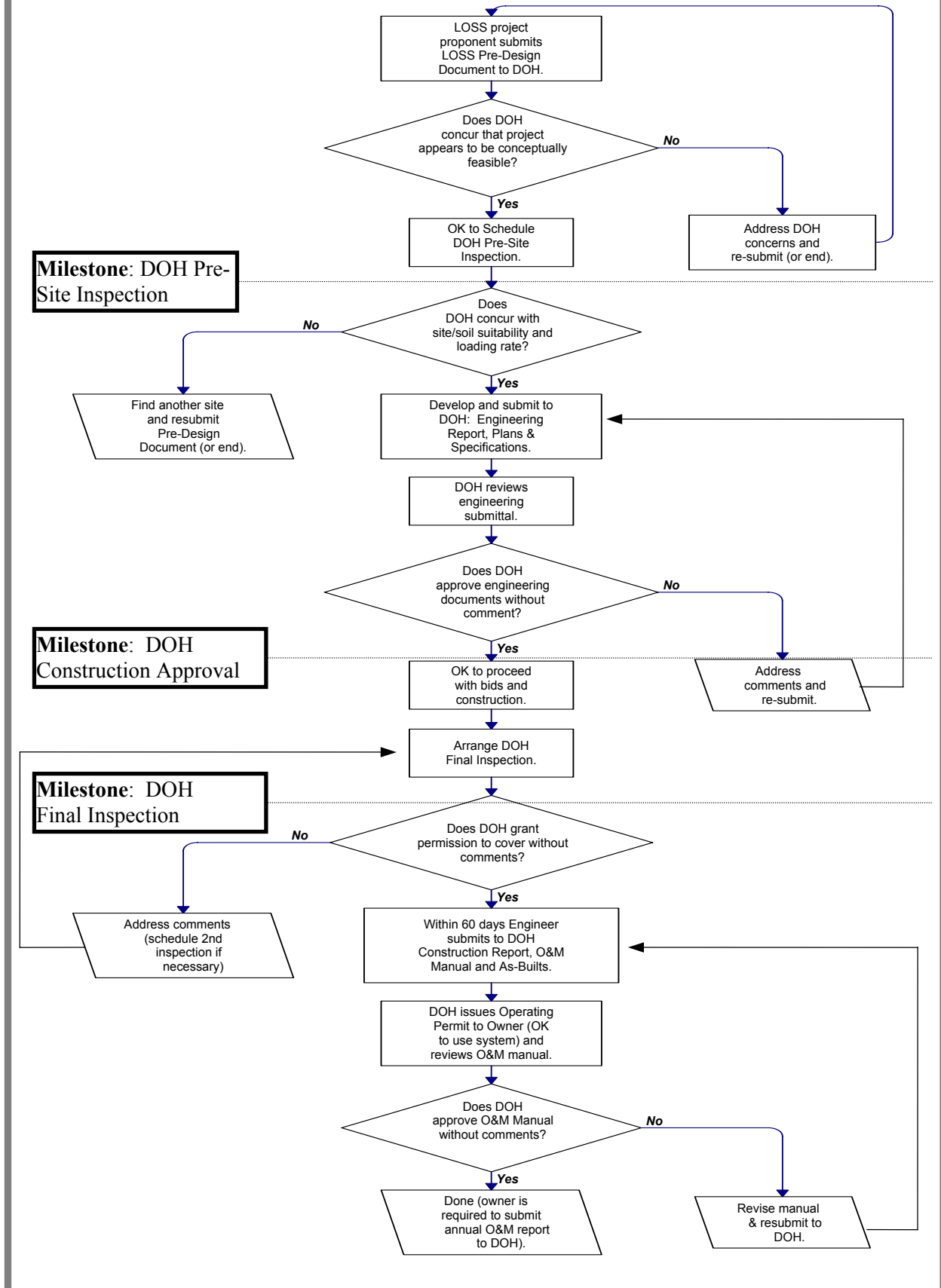


Legend: **(A)** =Hyperlink → =Progression → =Revision =Optional

For more information on this or any permitting process visit <http://www.ora.wa.gov> or call the Washington State Office of Regulatory Assistance at (800) 917-0043.



LOSS Project Application Process Flowchart



Air Quality Notice of Construction (NOC) Permit



Application Phase

Review and Decision Phase

Appeal Phase

Applicant

Washington Department of Ecology (Ecology)

Public or Other Interested Party

Start

Applicant reviews activities requiring NOC permitting (triggering mechanisms) and determines regulatory jurisdiction

A

Not Below thresholds

Below thresholds

B

If emissions are below exemption thresholds then file project summary with Ecology for review

Applicant can request pre-application consultation with Ecology to review application needs

Applicant prepares Notice of Construction (NOC) application and submits to Ecology Regional Office

C

No Permit Required
Exempt from Notice of Construction permitting

not required

not required

Ecology reviews project summary. Ecology may require NOC.

30 Days

required

Ecology reviews application for completeness

Incomplete

Complete

Ecology issues Notice of Incompleteness

30 Days

T1

Ecology issues Notice of Completeness

30 Days

T1

Ecology issues proposed decision

60 Days

T2

Applicant publishes public notice.

Applicant submits written comments regarding proposed decision

Ecology reviews public comments and determines whether a public hearing is needed.

Public submits written comments regarding proposed decision

30 Days

Hearings Not Held

Hearings To Be Held

Applicant testimony

Ecology conducts public hearings

30 Days

Public testimony

Ecology issues final determination

Approve

Deny

Ecology issues NOC permit

Applicant can appeal final determination to Washington Pollution Control Hearing Board (PCHB)

D

Public can appeal final determination to Washington Pollution Control Hearing Board (PCHB)

D

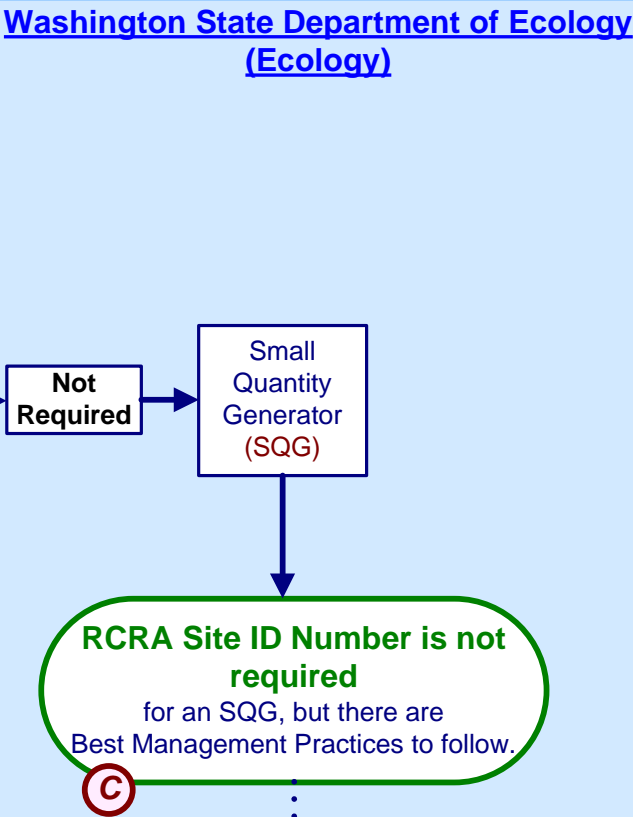
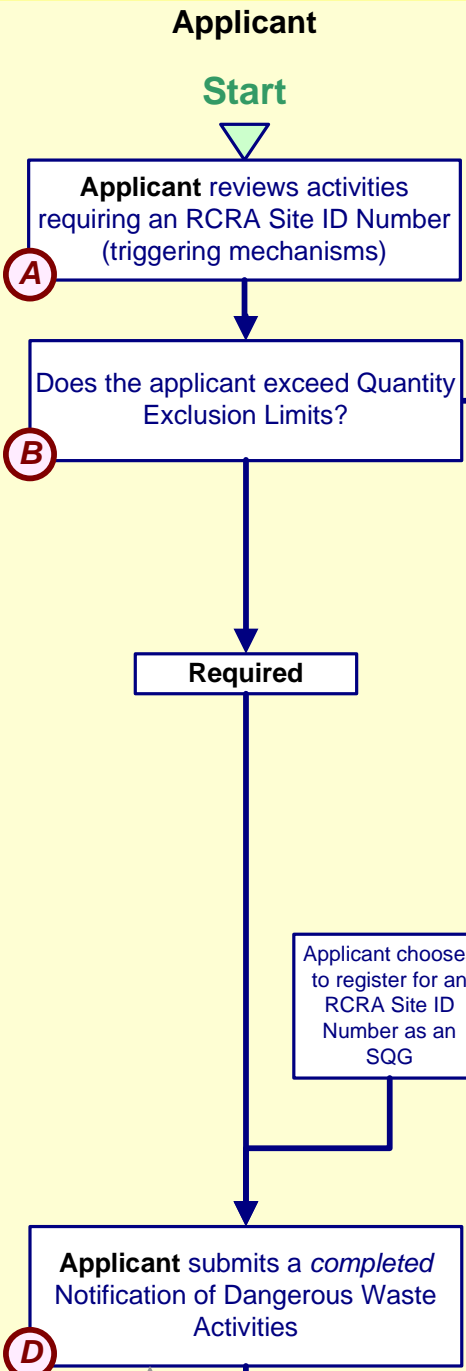
Goal is to issue final determination within 60 days after the public comment period is closed

T3

Legend: A=Hyperlink T=Timeliness Target →=Progression →=Revision ...=Optional

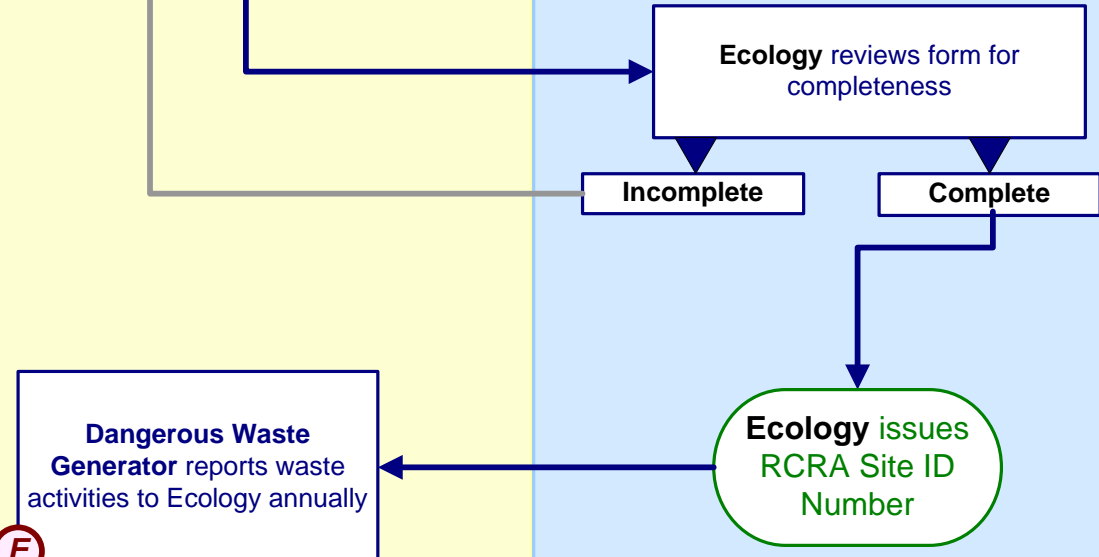
For more information on this or any permitting process visit <http://www.ora.wa.gov> or call the Washington State Office of Regulatory Assistance at (800) 917-0043.

Application Phase



Public or Other Interested Party

Review and Issuance Phase



10 to 14 Days from receipt of a complete application

Please note: Ecology provides pollution prevention and compliance assistance to all hazardous waste generators, but actually regulates medium and large quantity generators.



Application Phase

Review Phase

Issuance and Appeal Phase

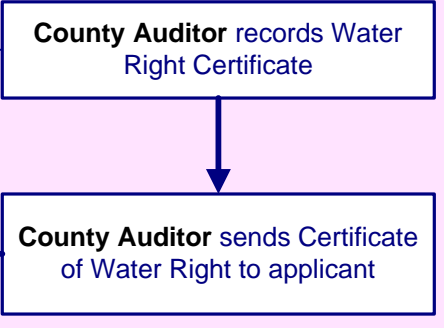
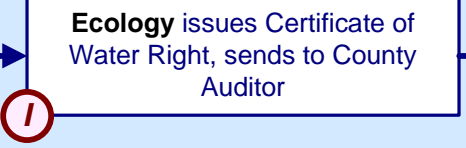
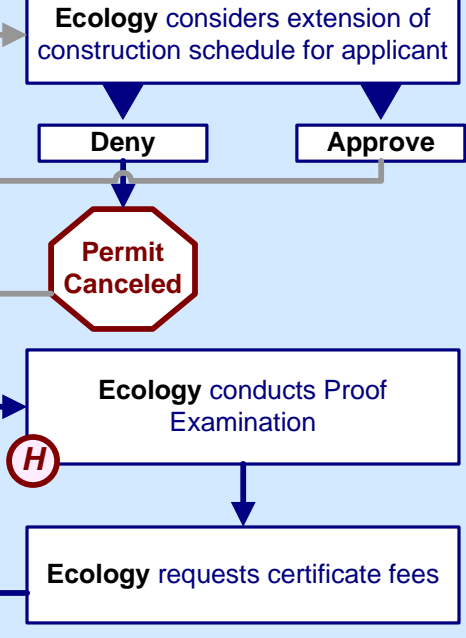
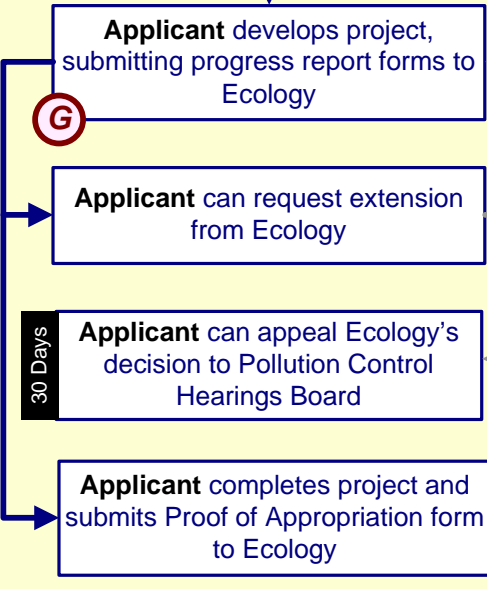
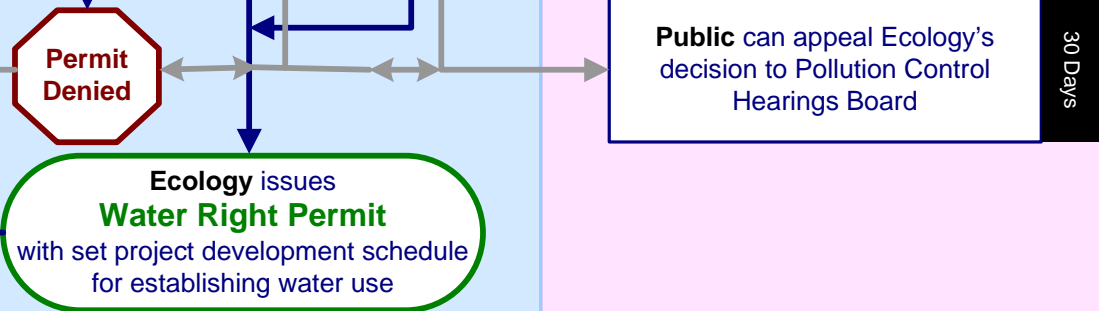
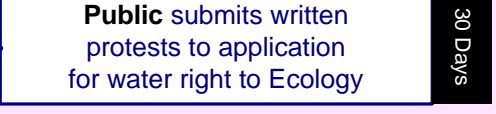
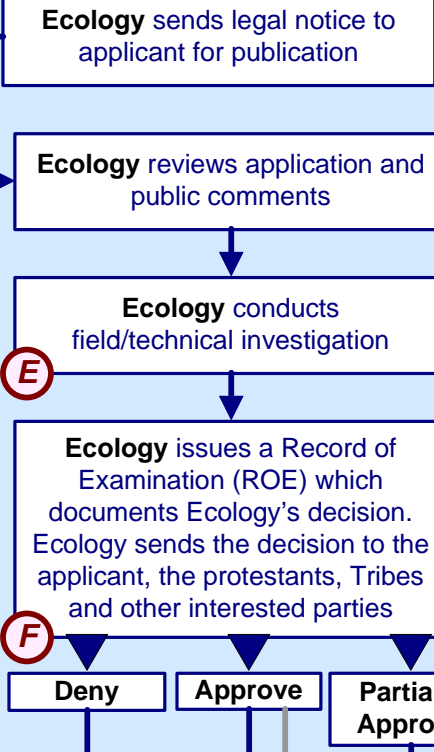
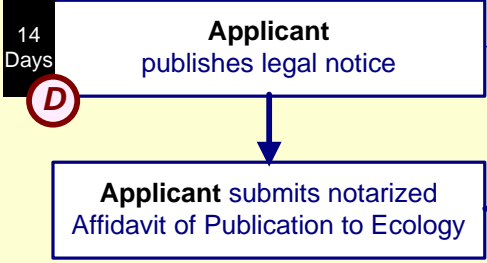
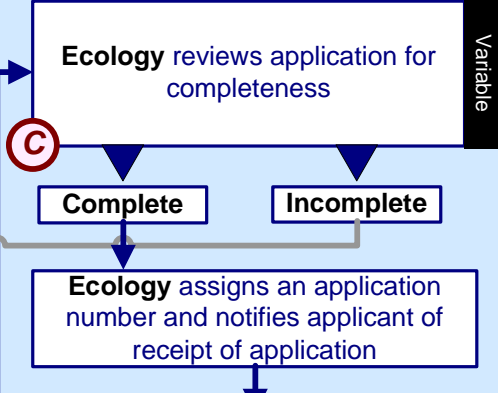
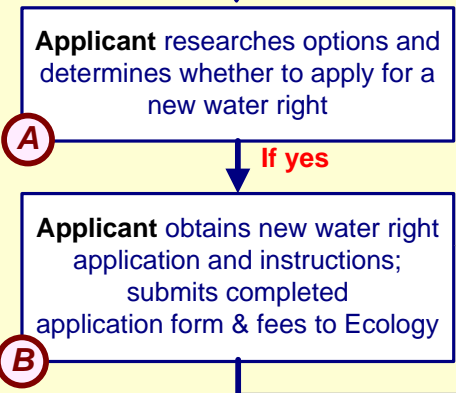
Certification Phase

Applicant

Washington Department of Ecology
(Ecology)

Public or Other Interested Party

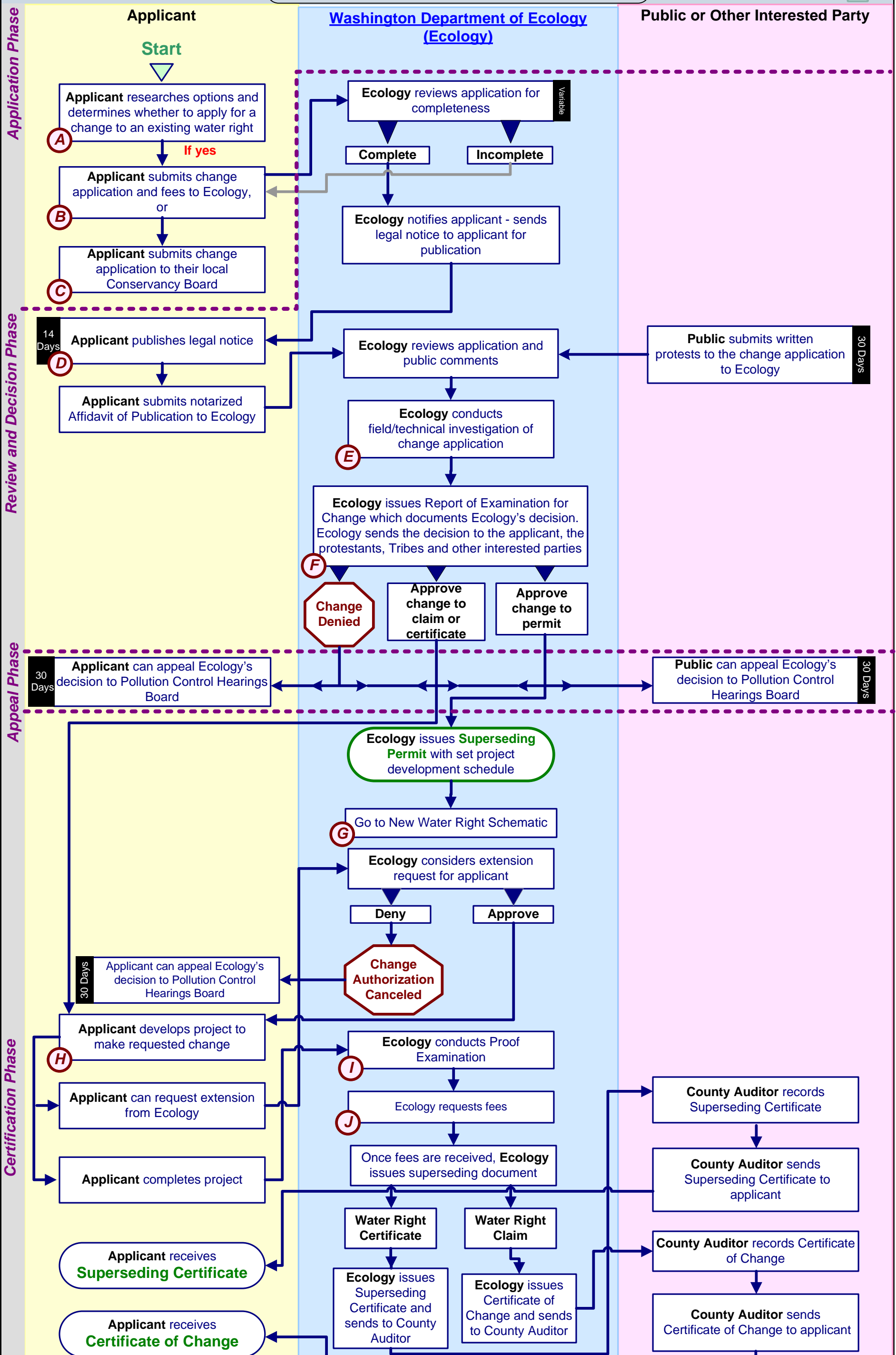
Start



Legend: (A) =Hyperlink → =Progression → =Revision =Optional

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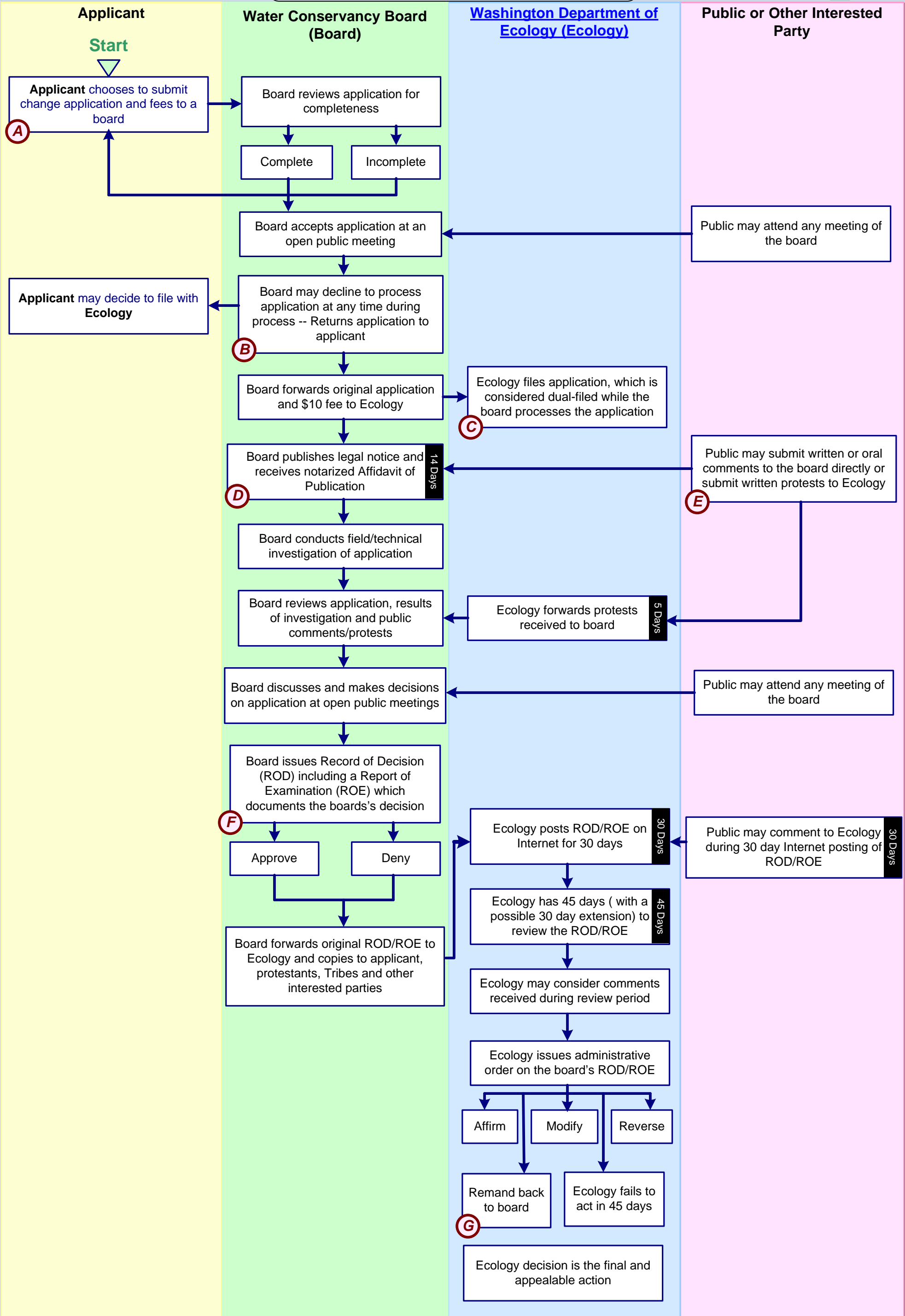
Change Existing Water Right Permit Process



Legend: (A) =Hyperlink → =Progression → =Revision =Optional

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Water Conservancy Board
Change Existing Water Right



Legend: (A) =Hyperlink → =Progression → =Revision =Optional

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